

**RESOLUTION AMENDING STATE AND LOCAL
GOVERNMENT PROVISIONS**

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Howard C. Nielson

A JOINT RESOLUTION OF THE LEGISLATURE PROPOSING TO AMEND THE UTAH CONSTITUTION; AMENDING AND ENACTING PROVISIONS RELATING TO LOCAL GOVERNMENT; REPEALING DUPLICATIVE LANGUAGE PROHIBITING A PROPERTY QUALIFICATION TO VOTE OR HOLD OFFICE; MODIFYING GENERAL AND SPECIAL ELECTION PROVISIONS; EXPANDING THE PROHIBITION AGAINST LENDING PUBLIC CREDIT TO A PRIVATE INDIVIDUAL OR CORPORATION; PROVIDING FOR POWERS OF COUNTIES, CITIES, TOWNS, AND OTHER POLITICAL SUBDIVISIONS OF THE STATE; MODIFYING PROVISIONS FOR MOVING A COUNTY SEAT; MODIFYING SPECIAL SERVICE DISTRICT PROVISIONS; EXPANDING PROHIBITION AGAINST IMPOSING TAXES FOR LOCAL PURPOSES; MODIFYING DEBT PROVISIONS; MODIFYING HIGHWAY PURPOSES FOR WHICH REVENUE FROM HIGHWAY USER AND MOTOR FUEL TAXES ARE TO BE USED; MAKING TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

This resolution proposes to change the Utah Constitution as follows:

AMENDS:

ARTICLE I, SECTION 4

ARTICLE IV, SECTION 9

ARTICLE VI, SECTION 1

ARTICLE VI, SECTION 29

ARTICLE XI, SECTION 1

ARTICLE XI, SECTION 2

ARTICLE XI, SECTION 4

ARTICLE XI, SECTION 5

ARTICLE XIII, SECTION 5

ARTICLE XIII, SECTION 13

ARTICLE XIV, SECTION 3

ENACTS:

ARTICLE XI, SECTION 7

ARTICLE XI, SECTION 8

ARTICLE XI, SECTION 9

ARTICLE XI, SECTION 10

REPEALS:

ARTICLE XII, SECTION 8

ARTICLE XIV, SECTION 8

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution Article I, Section 4, to read:

Article I, Section 4. [Religious liberty.]

The rights of conscience shall never be infringed. The State shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; no religious test shall be required as a qualification for any office of public trust or for any vote at any election; nor shall any person be incompetent as a witness or juror on account of religious belief or the absence thereof. There shall be no union of Church and State, nor shall any church dominate the State or interfere with its functions. No public money or property shall be appropriated for or applied to any religious worship, exercise or instruction, or for the support of any ecclesiastical establishment. ~~[No property qualification shall be required of any person to vote, or hold office, except as provided in this Constitution.]~~

Section 2. It is proposed to amend Utah Constitution Article IV, Section 9, to read:

Article IV, Section 9. [General and special elections -- Terms -- Election of local officers.]

(1) [AH] Each general ~~[elections, except for municipal and school officers;]~~ election shall be held on the Tuesday next following the first Monday in November of ~~[the]~~ each even-numbered year

[in which the election is held].

(2) Special elections may be held as provided by [law] statute.

(3) The [terms] term of [all officers] each officer, except legislator, elected at [any] a general election[, except legislators,] shall commence on the first Monday in January next following the date of [their] the election.

(4) [~~Municipal and School~~] The election of officers of each city, town, school district, and other political subdivision of the State shall be [elected] held at [such] the time [as may be] and in the manner provided by [law] statute.

Section 3. It is proposed to amend Utah Constitution Article VI, Section 1, to read:

Article VI, Section 1. [Power vested in Senate, House, and People.]

(1) The Legislative power of the State shall be vested in:

[1. In] (a) a Senate and House of Representatives which shall be designated the Legislature of the State of Utah[-]; and

[2. In] (b) the people of the State of Utah[, as hereinafter stated:] as provided in Subsection (2).

(2) (a) (i) The legal voters [~~or such fractional part thereof,~~] of the State of Utah [~~as may be provided by law,~~ in the numbers, under [such] the conditions [and], in [such] the manner, and within [such] the time [as may be] provided by [law] statute, may:

(A) initiate any desired legislation and cause [~~the same~~] it to be submitted to [~~a vote of~~] the people for [approval or rejection,] adoption upon a majority vote of those voting on the legislation, as provided by statute; or [may]

(B) require any law passed by the Legislature, [~~(except those laws passed by a two-thirds vote of the members elected to each house of the Legislature)]~~, to be submitted to the voters of the State, as provided by statute, before [such] the law [shall] may take effect. [Legislation]

(ii) Notwithstanding Subsection (2)(a)(i)(A), legislation initiated to allow, limit, or prohibit the taking of wildlife or the season for or method of taking wildlife shall be adopted upon approval of two-thirds of those voting.

(b) The legal voters [~~or such fractional part thereof as may be provided by law,~~] of any [legal

~~subdivision of the State]~~ county, city, or town, in the numbers, under [such] the conditions [and], in [such] the manner, and within [such] the time [as may be] provided by [law] statute, may:

(i) initiate any desired legislation and cause [the same] it to be submitted to [a vote of] the people of [said legal subdivision] the county, city, or town for [approval or rejection,] adoption upon a majority vote of those voting on the legislation, as provided by statute; or [may]

(ii) require any law or ordinance passed by the law making body of [said legal subdivision] the county, city, or town to be submitted to the voters thereof, as provided by statute, before [such] the law or ordinance [shall] may take effect.

Section 4. It is proposed to amend Utah Constitution Article VI, Section 29, to read:

Article VI, Section 29. [Lending public credit forbidden -- Exception.]

The Legislature [shall] may not authorize the State, or any county, city, town, [township,] school district, or other political subdivision of the State to lend its credit or subscribe to stock or bonds in aid of any railroad, telegraph or other private individual or corporate enterprise or undertaking, except as provided in Article X, Section 5.

Section 5. It is proposed to amend Utah Constitution Article XI, Section 1, to read:

ARTICLE XI. LOCAL GOVERNMENTS

Article XI, Section 1. [Counties recognized as legal subdivisions -- Powers of counties.]

(1) The [several] counties of the [Territory] State of Utah[, existing at the time of the adoption of this Constitution,] are [hereby] recognized as legal subdivisions of this State[, and the precincts, and school districts,]. The counties now existing [in said counties, as legal subdivisions thereof, and they] shall [so] continue until changed as provided by [law in pursuance of this article] statute.

(2) Counties may:

(a) as prescribed by statute, levy, assess, and collect taxes, borrow money, and levy and collect special assessments for benefits conferred; and

(b) provide services, exercise powers, and perform functions that are reasonably related to the safety, health, morals, and welfare of their inhabitants, except as the Legislature limits or prohibits by statute.

Section 6. It is proposed to amend Utah Constitution Article XI, Section 2, to read:

Article XI, Section 2. [Moving a county seat.]

~~[No County Seat shall be removed unless two-thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal, and two-thirds of the votes cast on the proposition shall be required to re-locate a county seat.]~~ A county seat may be moved only when at a countywide general election two-thirds of those voting on the proposition vote in favor of moving the county seat. A proposition ~~[of removal shall]~~ to move the county seat may not be submitted in the same county more than once in four years.

Section 7. It is proposed to amend Utah Constitution Article XI, Section 4, to read:

Article XI, Section 4. [Optional forms of county government.]

The Legislature shall by ~~[general law prescribe]~~ statute provide for optional forms of county government ~~[and shall allow each county to select, subject to referendum in the manner provided by law, the prescribed].~~ The selection of an optional form ~~[which best serves its needs, and by general laws shall provide for precinct and township organizations]~~ shall be subject to voter approval as provided by statute.

Section 8. It is proposed to amend Utah Constitution Article XI, Section 5, to read:

Article XI, Section 5. [Cities and towns not to be created by special laws -- Legislature to provide for the incorporation, organization, dissolution, and classification of cities and towns -- Charter cities.]

~~[Corporations for municipal purposes shall]~~

The Legislature may not ~~[be created]~~ create cities or towns by special laws.

The Legislature by ~~[general laws]~~ statute shall provide for the incorporation, organization ~~[and classification]~~, and dissolution of cities and towns and for their classification in proportion to population~~[, which laws may be altered, amended or repealed]~~. Any incorporated city or town may frame and adopt a charter for its own government in the following manner:

The legislative authority of the city may, by two-thirds vote of its members, and upon petition of qualified electors to the number of fifteen per cent of all votes cast at the next preceding election for the office of the mayor, shall forthwith provide by ordinance for the submission to the electors of

the question: "Shall a commission be chosen to frame a charter?" The ordinance shall require that the question be submitted to the electors at the next regular municipal election. The ballot containing such question shall also contain the names of candidates for members of the proposed commission, but without party designation. Such candidates shall be nominated in the same manner as required by law for nomination of city officers. If a majority of the electors voting on the question of choosing a commission shall vote in the affirmative, then the fifteen candidates receiving a majority of the votes cast at such election, shall constitute the charter commission, and shall proceed to frame a charter.

Any charter so framed shall be submitted to the qualified electors of the city at an election to be held at a time to be determined by the charter commission, which shall be not less than sixty days subsequent to its completion and distribution among the electors and not more than one year from such date. Alternative provisions may also be submitted to be voted upon separately. The commission shall make provisions for the distribution of copies of the proposed charter and of any alternative provisions to the qualified electors of the city, not less than sixty days before the election at which it is voted upon. Such proposed charter and such alternative provisions as are approved by a majority of the electors voting thereon, shall become an organic law of such city at such time as may be fixed therein, and shall supersede any existing charter and all laws affecting the organization and government of such city which are now in conflict therewith. Within thirty days after its approval a copy of such charter as adopted, certified by the mayor and city recorder and authenticated by the seal of such city, shall be made in duplicate and deposited, one in the office of the secretary of State and the other in the office of the city recorder, and thereafter all courts shall take judicial notice of such charter.

Amendments to any such charter may be framed and submitted by a charter commission in the same manner as provided for making of charters, or may be proposed by the legislative authority of the city upon a two-thirds vote thereof, or by petition of qualified electors to a number equal to fifteen per cent of the total votes cast for mayor on the next preceding election, and any such amendment may be submitted at the next regular municipal election, and having been approved by the majority of the electors voting thereon, shall become part of the charter at the time fixed in such amendment and shall be certified and filed as provided in case of charters.

Each city forming its charter under this section shall have, and is hereby granted, the authority to exercise all powers relating to municipal affairs, and to adopt and enforce within its limits, local police, sanitary and similar regulations not in conflict with the general law, and no enumeration of powers in this constitution or any law shall be deemed to limit or restrict the general grant of authority hereby conferred; but this grant of authority shall not include the power to regulate public utilities, not municipally owned, if any such regulation of public utilities is provided for by general law, nor be deemed to limit or restrict the power of the Legislature in matters relating to State affairs, to enact general laws applicable alike to all cities of the State.

The power to be conferred upon the cities by this section shall include the following:

(a) To levy, assess and collect taxes and borrow money, within the limits prescribed by general law, and to levy and collect special assessments for benefits conferred.

(b) To furnish all local public services, to purchase, hire, construct, own, maintain and operate, or lease, public utilities local in extent and use; to acquire by condemnation, or otherwise, within or without the corporate limits, property necessary for any such purposes, subject to restrictions imposed by general law for the protection of other communities; and to grant local public utility franchises and within its powers regulate the exercise thereof.

(c) To make local public improvements and to acquire by condemnation, or otherwise, property within its corporate limits necessary for such improvements; and also to acquire an excess over than [that] needed for any such improvement and to sell or lease such excess property with restrictions, in order to protect and preserve the improvement.

(d) To issue and sell bonds on the security of any such excess property, or of any public utility owned by the city, or of the revenues thereof, or both, including, in the case of public utility, a franchise stating the terms upon which, in case of foreclosure, the purchaser may operate such utility.

Section 9. It is proposed to enact Utah Constitution Article XI, Section 7, to read:

Article XI, Section 7. [Cities and towns -- Powers.]

Cities and towns may:

(1) as prescribed by statute, levy, assess, and collect taxes, borrow money, and levy and

collect special assessments for benefits conferred; and

(2) exercise other powers and perform other functions that are reasonably related to the safety, health, morals, and welfare of their inhabitants, except as the Legislature limits or prohibits by statute.

Section 10. It is proposed to enact Utah Constitution Article XI, Section 8, to read:

Article XI, Section 8. [Special service districts.]

(1) The Legislature may by statute authorize:

(a) a county, city, or town to establish a special service district within all or any part of the county, city, or town, to be governed by the governing authority of the county, city, or town, and to provide services as provided by statute;

(b) a county, city, or town to levy taxes upon the taxable property in the special service district for the purpose of acquiring, constructing, equipping, operating, and maintaining facilities required for any or all of the services the special service district is authorized to provide; and

(c) a special service district to issue bonds of the special service district for the purpose of acquiring, constructing, and equipping any of the facilities required for any or all of the services the special service district is authorized to provide, without regard to the limitations of Article XIV, Sections 3 and 4, but subject to such limitation on the aggregate amount of the bonds outstanding at any one time as may be provided by statute.

(2) The authority to levy taxes upon the taxable property in a special service district and to issue bonds payable from taxes levied on the taxable property in the special service district shall be conditioned upon the assent of a majority of the qualified electors of the special service district voting in an election for this purpose to be held as provided by statute.

(3) A special service district created by a county may contain all or part of one or more cities or towns, but only with the consent of the governing authority of each city or town to be included in the special service district.

Section 11. It is proposed to enact Utah Constitution Article XI, Section 9, to read:

Article XI, Section 9. [Political subdivisions of the State or other governmental entities in addition to counties, cities, towns, school districts, and special service districts.]

The Legislature may by statute provide for the establishment of political subdivisions of the State, or other governmental entities, in addition to counties, cities, towns, school districts, and special service districts, to provide services and facilities as provided by statute. Those other political subdivisions of the State or other governmental entities may exercise those powers and perform those functions that are provided by statute.

Section 12. It is proposed to enact Utah Constitution Article XI, Section 10, to read:

Article XI, Section 10. [Consent of local authorities necessary for use of streets.]

The Legislature may not grant the right to construct and operate a street railroad, telegraph, telephone, or electric light plant within a city or town without the consent of the local authorities who have control of the street or highway proposed to be occupied for such purposes.

Section 13. It is proposed to repeal Utah Constitution Article XII, Section 8:

Article XII, Section 8. [Consent of local authorities necessary for use of streets.]

~~[No law shall be passed granting the right to construct and operate a street railroad, telegraph, telephone or electric light plant within any city or incorporated town, without the consent of the local authorities who have control of the street or highway proposed to be occupied for such purposes.]~~

Section 14. It is proposed to amend Utah Constitution Article XIII, Section 5, to read:

Article XIII, Section 5. [Counties, cities, towns, school districts, or other political subdivisions to levy local taxes -- Sharing tax and revenues by political subdivisions -- Debt guaranty.]

(1) The Legislature [~~shall~~] may not impose taxes for the purpose of any county, city, town, school district, or other [~~municipal corporation~~] political subdivision of the State, but may, by [~~law~~] statute, vest in the [~~corporate authorities~~] governing bodies thereof, respectively, the power to assess and collect taxes for all purposes of such [~~corporation~~] political subdivision.

(2) Notwithstanding anything to the contrary contained in this Constitution, political subdivisions may share their tax and other revenues with other political subdivisions as provided by statute and the State may guarantee the debt of school districts and may guarantee debt incurred to refund the school district debt as provided in Article X, Section 5.

Section 15. It is proposed to amend Utah Constitution Article XIII, Section 13, to read:

Article XIII, Section 13. [Revenue from highway user and motor fuel taxes to be used for highway purposes.]

The proceeds from the imposition of any license tax, registration fee, driver education tax, or other charge related to the operation of any motor vehicle upon any public highway in this State, and the proceeds from the imposition of any excise tax on gasoline or other liquid motor fuels used for propelling such vehicle, except for statutory refunds and adjustments allowed thereunder and for costs of collection and administration, shall be used exclusively for highway purposes as follows:

(1) the construction, improvement, repair and maintenance of city streets, county roads, and State highways, including but not restricted to payment for property taken for or damaged by rights

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of way, and for administrative costs necessarily incurred for said purposes[-];

(2) the administration of a driver education program[-];

(3) the enforcement of State motor vehicle and traffic laws[-]; and

(4) [~~Tourists and publicity expense in any single biennium not in excess of the lesser of the following: (a) .5 per cent of the total biennial revenues from motor fuel taxes, or (b) an amount equal to the 1959-1961 biennium.~~] the payment of the principal of and interest on any obligation of the State or any city or county, issued for any of the highway purposes set forth in Subsection (1), and to which any of the proceeds described in this section have been pledged, including any of such proceeds paid to the State or any city or county, as provided by statute.

Section 16. It is proposed to amend Utah Constitution Article XIV, Section 3, to read:

Article XIV, Section 3. [Certain debt of counties, cities, towns, school districts, and other political subdivisions not to exceed revenue -- Exception.]

No debt issued by a county, city, town, school district, or other political subdivision of the State and directly payable from and secured by ad valorem property taxes levied by the issuer of the debt may be created in excess of the taxes for the current year [~~shall be created by any county or subdivision thereof, or by any school district therein, or by any city, town or village, or any subdivision thereof in this State;~~] unless the proposition to create [such] the debt[-, shall have] has been submitted to a vote of [such] qualified [~~electors as shall have paid a property tax therein, in the year preceding such election~~] voters at the time and in the manner provided by statute, and a majority

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of those voting thereon [~~shall have~~] has voted in favor of incurring [~~such~~] the debt.

Section 17. It is proposed to repeal Utah Constitution Article XIV, Section 8:

Article XIV, Section 8. [~~Special service districts.~~]

~~[(1) The Legislature by general statute may authorize:]~~

~~[(a) any county, city, or town to establish special districts within all or any part of the county, city, or town to be governed by the governing authority of the county, city, or town, and each special district may provide water, sewerage, drainage, flood control, garbage, transportation, recreation, health care, and fire protection services or any combination of these services in accordance with that statute;]~~

~~[(b) any county, city, or town to levy taxes upon the taxable property in such special district for the purpose of acquiring, constructing, equipping, operating, and maintaining facilities required for any or all of such services; and]~~

~~[(c) any special district to issue bonds of the special district for the purpose of acquiring, constructing, and equipping any of these facilities without regard to the limitations of Sections 3 and 4 of this Article XIV but subject to such limitation on the aggregate amount of these bonds which may be outstanding at any one time as may be provided by statute.]~~

~~[(2) The authority to levy taxes upon the taxable property in these districts and to issue bonds of these districts payable from taxes levied on the taxable property in them shall be conditioned upon the assent of a majority of the qualified electors of the district voting in an election for this purpose to be held as provided by statute.]~~

~~[(3) Any such district created by a county may contain all or part of any incorporated municipality or municipalities but only with the consent of the governing authorities thereof.]~~

Section 18. Submittal to electors.

The lieutenant governor is directed to submit this proposed amendment to the electors of the state of Utah at the next general election in the manner provided by law.

Section 19. Effective date.

If approved by a majority of the electors of the state voting at the next general election, the amendment proposed by this joint resolution shall take effect on January 1, 2001.

