

2017 HOUSE POLITICAL SUBDIVISIONS

HB 1364

2017 HOUSE STANDING COMMITTEE MINUTES

Political Subdivision Committee
Prairie Room, State Capitol

HB 1364
2/3/2017
27902

- Subcommittee
 Conference Committee

Committee Clerk Signature

Mary Brucker

Explanation or reason for introduction of bill/resolution:

Relating to the prohibition against parking meters.

Minutes:

1,2,3

Chairman Klemin: Opened the hearing on HB 1364. We will take testimony in support of HB 1364. Is there testimony in opposition to HB 1364?

Bill Wocken, on behalf of the North Dakota League of Cities: (Testimony #1 handout #2) Ended testimony on attachment #1 at 4:18. There is another measure that is circulating in the senate, SB 2247, which seeks to repeal that prohibition.

Rep K. Koppelman: You indicated in your testimony that this is something some cities might be considering since the League feels it's time to allow them. What is the status and why is there interest now?

Mr. Wocken: Several times over the years we've attempted to introduce this discussion about using parking meters in cities. There are many cities that have a concentration of business activity in the downtown area and a lack of off-street parking resources where parking meters might be an attractive alternative. We believe it is time to have the discussion about allowing cities to determine for themselves whether or not parking meters fit into their local picture. There are costs involved without parking meters; policing the downtown area, enforcement, and etc. Parking meters are much more efficient and an effective way of policing that resource.

Rep K. Koppelman: What would be the process under current law if a home rule city would decide to do this? Is the presumption that they are allowed to do so and could they do that just through ordinance?

Mr. Wocken: I was surprised to see this bill in place because under 39-01-09 we've already decided that parking meters weren't something that we (Bismarck) could do. I don't know if a home rule charter could allow that power to be taken by a city or not. We felt the bigger issue was whether or not parking meters should be allowed in the downtown area at all and

whether that would be a city discretionary item. We thought it was time to have that discussion.

Chairman Klemin: Would that require a separate election or vote by the residents of the city of Bismarck in order to amend the home rule charter to allow parking meters?

Mr. Wocken: I'm not 100% sure of this but I know generally the rule is that if you want to put it in the charter it requires an election. Whether this is a discretionary power that might be eluded to in a charter and might already be available, that is possible.

Chairman Klemin: We're probably all familiar with a proposal from another city in North Dakota to put a city tax on gasoline by virtue of their home rule status. I don't recall whether they needed to amend their home rule charter to do that or not. I think there is another bill circulating somewhere that says you can't do that either.

Mr. Wocken: I think that issue was invoking the tax and moving it to the local level. I don't think it was a prohibition against doing that. I think the code may have been silent on that issue. That may be the difference between these two possibilities for home rule charter.

Rep. R. S. Becker: Could you address the rate setting that would be at the level of the municipality that is wanting to bring parking meters to their community? Would they be the ones to set the rate?

Mr. Wocken: Typically, that would be done by the municipality. If you want to make parking available cheap in the downtown area to make sure the space is turned over you might put a lower value on parking. If you have a lot of demand and you want to move people out so they only stay for an hour so that space turns over more rapidly, you'd probably want to put a higher rate on. There are also possibilities of going in and putting a lower rate on for the morning hours, when you may not have heavy demand and a higher rate in the afternoon. One of the things we battle with downtown parking is where the employees park and the customers park. With a meter you can't differentiate between an employee and a customer but you can with how many hours you can have and whether or not the meter will renew.

Rep. R. S. Becker: Your latter point is the one I'm driving at. There are signs in most of our communities with 30 minute, 60 or 90 minutes. I object to the parking meters that they are coins and more people are carrying less coinage. Most people dislike parking meters because of the coins and the time limits on the meters.

Mr. Wocken: The city of Bismarck took the 60 minute signs and replaced them with 90 minutes. There are parking meters that are electronic so you can operate them from your cell phone. When you get close to expiring you get a message on your cell phone so you could purchase more time.

Chairman Klemin: Wouldn't the system you just described take a lot of electrical installation and everything else that goes along with that?

Mr. Wocken: I would assume that would be a part of the program especially in North Dakota where batteries have a short life because of the winter. I would think you would have to have

some sort of power source. A city would have to consider all of that if they decide to put in parking meters. I don't think you'll see a city anywhere in North Dakota that will have parking meters throughout the downtown; it will probably be in areas where they want to concentrate on keeping those spaces rotating and keeping the traffic up. If you're going to have a three to four-hour limit on the spaces, I think you'll just do as you do now with the posted signs. This is just an option that would be available.

Chairman Klemin: Your comment about less time spent monitoring space occupancy, doesn't someone have to go and check to see if someone has stayed too long and their meter has run out?

Mr. Wocken: In this day of electronics, I wouldn't be surprised if there was a master board somewhere that identified cars left in spaces where time has expired. There might be more of a targeted enforcement possible.

Rep. Guggisberg: We don't know what kind of technology is going to be coming forward with management of parking and cities so I think it's a good idea to allow them to go with home rule charter. To change the home rule charter, is that a 50% vote or 60% vote?

Mr. Wocken: Each city is perhaps a bit different. A minimum would be 50% I'm sure but each city would be different. They may have to time an election where that could be done. It would require a vote.

Steve Salwei, Transportation Programs Director for North Dakota Department of Transportation: (Testimony #3). Ended testimony at 19:48.

Rep K. Koppelman: You note that the first parking meters were introduced in 1930's then you go on to say they were an effective tool but you omit the fact that the previous testimony indicated they were prohibited since the 1940s. This effective tool you're talking about must have occurred in the 1930s or in some other state. Can you clarify?

Mr. Salwei: That is from what other states have found from their research. It is not pertaining to just North Dakota. You are correct, they are prohibited and have been for many years. Other cities and states have found it to be an effective tool to turn over the parking in those high demand areas and increasing the revenues and resources for the businesses in those areas.

Rep K. Koppelman: The bill would clarify that what has been a law in North Dakota for several years is true for home rule cities as well as for other cities. Your testimony doesn't really deal with that; it says we should open it up for everybody. Are you suggesting an amendment to the bill?

Mr. Salwei: There is another bill on the senate side that repeals that. I'm saying that instead of adding to this 39-01-09 of Century Code, we believe it would be a good idea to repeal that entire section.

Rep K. Koppelman: I don't mean to disrespect the department's opinion and while I recognize the input and the work you put in every day, I also recognize the balance in the

legislature being the policymaking branch of government. I trust you can also recognize that balance.

Chairman Klemin: I am just reminded when I was in St. Paul at the capitol and all around the capitol building had parking meters so I had to go somewhere to get change in order to come back and park. If we repealed this law would we be seeing parking meters in our parking lots at the state capitol?

Mr. Salwei: The DOT doesn't have an interest in installing parking meters; we're just in support that our partners have the ability to utilize that tool if they believe that tool would enhance the parking abilities of their community. I don't know if we would see them on the state capitol grounds or not. We are in favor of having our communities make that decision.

Chairman Klemin: Is there any other testimony in opposition to HB 1364? Is there neutral testimony? Hearing recessed.

2017 HOUSE STANDING COMMITTEE MINUTES

Political Subdivision Committee
Prairie Room, State Capitol

HB1364
2/10/2017
Job # 28234

- Subcommittee
 Conference Committee

Carmen Hicklo

Explanation or reason for introduction of bill/resolution:

Relating to the prohibition against parking meters

1,2,3

Chairman Klemin: Reopened the hearing on HB 1364. (Attachments 1,2,3).

Rep. Boehning: The reason we brought this forward is because parking meters are illegal in North Dakota. But when we did some more research we found out that parking meters were legal in Home Rule Charter cities. I think parking meters are another hidden tax in downtown. The city of Fargo is looking at doing it, it helps to change cliental downtown. If you want to keep turning over the people in downtown, they can enforce the parking laws in downtown Fargo. It seems they want to keep the cars moving in parking spots, I don't know how parking meters are going to do that because you can go out and put more money in and your car can sit there all day. The way it is currently you have to actually go out and physically move your car so it seems we are going to get more people moving in and out of the parking spots downtown. I think we had this initiated measure for 69 years, and I think we should put into law that Home Rule Charters can't have parking meters as well.

Rep K. Koppelman: Does the city of Fargo or any of the other Home Rule Charters say they can do parking meters? Do any of them say that now?

Rep. Boehning: As far as I know the only parking meters installed in any city, except on campus because NDSU has a few and UND does also.

Rep K. Koppelman: This has been a law in ND since 1949, as a result of an initiated measure, is that right?

Rep. Boehning: I do believe that was an initiated measure way back when.

Rep. Zubke: You referred to it as a hidden tax, it isn't really hidden is it?

Rep. Boehning: I think it is a hidden tax because we are already paying for parking spots in the city so now we are putting another tax on. It might not be a hidden tax, it's a tax that's out

there that is going to be collected. If it's going to get people to come downtown and changing parking spots more often they should maybe enforce the parking laws that are there. This current system you actually have to go out and move your car every 90 minutes. With the parking meters you can go and put some more money in them. Vehicles are just going to change over they are going to sit there longer.

Rep. Zubke: Isn't the reason we have Home Rule Charters is so they can make their own local decisions?

Rep. Boehning: It probably is. But I know some Home Rule Charter cities they like to not listen to their constituents, they see this as a way to generate more revenue.

Rep. Maragos: I don't know that a Home Rule Charter allows any entity to pass a law that is prohibited by the state.

Rep. Boehning: Because Home Rule Charters aren't specifically in law. So basically it says you can't have them but Home Rule Charter are exempt from this.

Rep. Maragos: Where in code does it say Home Rule Charters are exempted from state law?

Rep. Boehning: The research that I heard about is Home Rule Charter they did fall underneath this when this was all put in place. It wasn't changed into this section of law where Home Rule Charters should have been put in.

Rep. Maragos: Where in any statute that Home Rule decisions can supersede anything that's prohibited by state statute?

Rep. Boehning: The way it is written Home Rule Charters are exempt from this currently. The can put in parking meters.

Rep. Maragos: Is that somewhere else in statute?

Rep. Boehning: I think that was something that was missed in statute at some point. There is a bill in Senate that would allow parking meters throughout the state. But I think for some reason I don't know why or how this was never put into this section of law.

Rep. Guggisberg: Just like if it was a free market when cities have all of these options to manage their city with, whether it be where people park or the revenue generated by this. I disagree with your statement that city leaders aren't listening to the electors, because they want to get reelected. When you take efficiency away from their ability to run the city, there is costs involved with that whether it's the revenue from the parking meters or the fact that they have to build more parking to make up for the needed parking in the downtown areas. I'm wondering where they should get that revenue they are losing? Should they raise property taxes? If we are going to make decisions based on polls in the forum I hope, we look at that when we are voting on the anti-discrimination bill.

Rep. Boehning: I think the city of Fargo and other cities are giving away a lot of incentives downtown so they are trying to find other ways to make money. If they would enforce there parking statues they have downtown, they would probably generate the same amount of revenue.

Rep. Hanson: Is the reference to Home Rule Charter in our state statue? There is a reference in our ND Constitution Article 7 Section 6.

Chairman Klemin: If this is prohibited for Home Rule cities by the effect of this statute, following up on Rep. Maragos, this would make it perfectly clear that it is prohibited.

Chairman Klemin: Closed the hearing on HB 1364.

Rep. Hanson: Senate bill 2247 passed in the Senate that is a related bill and deals with parking meters and it would repeal the parking meters.

Rep K. Koppelman: Made a do pass motion

Rep. Johnson: Second the motion

Rep. Beadle: I understand the local municipalities desire to put them in. I don't see it in terms of an extra taxing authority or an extra ability. But rather there is a big push to build parking ramps in downtown Fargo. The primary funding mechanism for parking ramp is through a revenue bond based off the fees of people parking in them. They have a hard time getting people to go and park in the ramps if they have to pay to park there but they don't have to pay to park on the street. The parking meters are for people to have to pay for that revenue bond.

Chairman Klemin: This does not authorize parking meters as far as I read the bill. What's that Senate bill that was referenced?

Rep. Beadle: It further restricts for Home Rule Charter.

Rep. Longmuir: If people are having troubles with their local issues it should be dealt with on a local level. If we start with parking meters next session it will be something else that people don't agree with in Home Rule Charter.

Rep K. Koppelman: I understand the flexibility that Home Rule Charters have given to cities and I think the idea of Home Rule Charters is to give cities some flexibility. It's not designed to allow cities to ignore state law. Our state law says you can't have parking meters, so all this does is clarify that this also applies to Home Rule cities.

Rep. R. S. Becker: The motion has made for a do pass and that is a vote against parking meters, is that correct?

Rep K. Koppelman: Yes, because they are already outlawed in state law this would say it applies to all cities.

Rep. Johnson: What was the reasoning on that case?

Rep K. Koppelman: Home Rule Charters do not allow cities to violate what is specific in statute.

Rep. Johnson: Because the powers of Home Rule Charter that are specifically set out in code, Home Rule Charter cities are allowed to collect fees that maybe parking meters are a collection of fees and it is specifically set out. Whereas the speeding is not.

Rep K. Koppelman: That is probably true. I think it clarifies.

Chairman Klemin: Article 7 Section 6 of the ND Constitution provides that the Legislative Assembly shall provide by law for the establishment and exercise of Home Rule in counties and cities. Home Rule Charter shall become operative in any county or city until submitted to the electors thereof and approved by a majority of those voting thereon. Granting Home Rule powers to cities the Legislative Assembly shall not be constricted by city debt limitations contained in this Constitution. There is a statute that procedure for Home Rule in cities. Sets out the method that Home Rule Charters can be proposed and adopted and voted upon. What is required is that the specific power has to be set out in the Charter. So if Home Rule wanted to do this they would have to have a majority vote. They would have to amend their Home Rule Charter to specifically authorize what they are doing. They just can't do anything they want to by the fact they have a Home Rule Charter. The statues for the state of ND so far as applicable shall continue to apply to Home Rule cities except in so far as superseded by the Charters of such cities or by ordinances past pursuant to such Charters. This seems to say they can have a Charter that authorizes a number of things but that they can't supersede the statues of the state of ND. Whether this proposal is consistent with that or inconsistent with that? Certainly this bill would make it clear that Home Rule cities and counties cannot have parking meters.

No further discussion.

Do pass roll call failed yes 4, 8 no, 3 absent.

Rep. Zubke: Moved a do not pass motion.

Rep. Longmuir: Second the motion.

Do not pass carries. 8 yes, 4 no, 3 absent.

Rep. Longmuir will carry the bill.

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1364**

House Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Koppelman Seconded By Rep. Johnson

Representatives	Yes	No	Representatives	Yes	No
Chairman Klemin	/		Rep. Guggisberg		/
Vice Chairman Hatlestad		/	Rep. Hanson		/
Rep. Beadle		/			
Rep. Becker	/				
Rep. Ertelt		/			
Rep. Johnson		/			
Rep. Koppelman	/				
Rep. Longmuir		/			
Rep. Maragos	/				
Rep. Pyle		—			
Rep. Simons		—			
Rep. Toman		—			
Rep. Zubke		/			

Total (Yes) 4 No 8

Absent 3

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-10-17
 Roll Call Vote: 2

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1364**

House Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Klemin		/	Rep. Guggisberg	/	
Vice Chairman Hatlestad	/		Rep. Hanson	/	
Rep. Beadle	/	/			
Rep. Becker	/	/			
Rep. Ertelt	/	/			
Rep. Johnson	/	/			
Rep. Koppelman	/	/			
Rep. Longmuir	/	/			
Rep. Maragos		/			
Rep. Pyle		—			
Rep. Simons		—			
Rep. Toman		—			
Rep. Zubke	/				

Total (Yes) 8 No 4

Absent 3

Floor Assignment Rep. Longmuir

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1364: Political Subdivisions Committee (Rep. Klemin, Chairman) recommends **DO NOT PASS** (8 YEAS, 4 NAYS, 3 ABSENT AND NOT VOTING). HB 1364 was placed on the Eleventh order on the calendar.

2017 TESTIMONY

HB 1364

HB 1364

#1

2-3-17

Testimony in Opposition to House Bill 1364
February 3, 2017
House Political Subdivisions Committee
Bill Wocken on behalf of the North Dakota League of Cities

Good Morning Mr. Chairman and members of the House Political Subdivisions Committee. For the record, my name is Bill Wocken, appearing on behalf of the North Dakota League of Cities in opposition to House Bill 1364. The bill seeks to prohibit home rule cities and counties from utilizing parking meters. NDCC 39-01-09 already prohibits cities or counties from using parking meters but it does not specify that use of a home rule charter to avoid this prohibition would not be allowed.

Parking meters have been prohibited in North Dakota since 1949. I am not certain that the home rule charter of any city or county presently allows for the use of parking meters. Parking meters are customarily used to manage on-street parking resources in the downtown areas of cities where the availability of parking space is at a premium. The more frequently the spaces turn over the more business opportunity is provided to adjacent businesses who seldom have their own off-street parking resources.

The North Dakota League of Cities feels that the time has come to allow the use of parking meters on city streets in cities who want to utilize this resource. For this reason the North Dakota League of Cities respectfully requests a DO NOT PASS recommendation for House Bill 1364.

Parking is considered by industry experts as one of the most important factors in a successful high demand retail area such as a downtown. Individuals, naturally prefer to park as close to their destination as possible. On-street parking provides a valuable but scarce resource in meeting this need. Generally, it is preferred to maintain a 15% vacancy rate, or one empty stall for every seven parking spaces, throughout high demand areas to ensure a parking space will always be available within a close walking distance of a desired destination.

As high demand parking areas often have a limited supply of parking, it becomes necessary to make the most efficient use of the existing supply to create what is known as parking turnover. Parking turnover refers to the number different cars which use a given space in a single day. The reason parking turnover is important to businesses in hard to park areas is that each parking space represents an economic value, which is significantly enhanced, when utilized by multiple customers. The ability to maximize parking turnover, increases access for more customers, ultimately allowing the opportunity for the area to generate more revenue. Professional analysts estimate that with effective parking management strategies, a single parking stall can turn over at least 10 to 12 times per day which translates to approximately \$150,000 to \$250,000 in annual retail sales. Experts believe that a lack of convenient on-street parking does not allow a hard to park area such as a downtown to compete with nearby shopping centers. Lower retail sales, fewer retailers, and weaker property lease rates can result if parking is not managed appropriately in these high demand parking areas. As these areas have limited parking supply it is imperative to manage the limited existing supply available as efficiently as possible to provide convenient access to as many prospective customers as possible.

The primary reason to charge for on-street parking is to manage parking turnover. Paying for parking assigns an economic value to a limited resource which encourages people to use the resource more effectively. Studies indicate that when on-street parking in high demand areas is free, less turn over results. Free on-street spaces tend to be occupied for longer periods of time by a single user which often is an employee of an establishment or resident within the area resulting in reduced access to prospective customers.

Although limiting parking stalls by time and enforcement is an option, and currently the only option available to North Dakota communities, it has several disadvantages. Timed parking is not flexible. If an individual needs to stay longer at a location for some reason, timed parking would not allow the individual the flexibility to do so. Additionally, timed parking can be difficult to enforce, requiring the potential for labor intensive enforcement techniques.

The label of "free" on-street parking can be misleading. The reality is the "free" on-street parking which exists in North Dakota's communities has a variety of costs including, construction/reconstruction, maintenance, and enforcement. Given that parking is often in limited supply expensive parking structures may be needed in these areas to compensate for limited available parking. These costs are currently the responsibility of North Dakota's local communities to address.

Depending on the circumstances metered on-street parking may or may not be an appropriate consideration for individual communities within North Dakota. However, local communities should be allowed a range of the most effective options to consider

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when addressing parking challenges. Ultimately, North Dakota's communities in coordination with their residents and businesses should be allowed the opportunity to determine which parking management strategies can most effectively meet their needs.

Resources

Carl Walker, *White Paper: On-street Pay Parking*, Carl Walker; at [http://www.manitouspringsgov.com/library/documents/general/White Paper On Street Pay Parking.pdf](http://www.manitouspringsgov.com/library/documents/general/White_Paper_On_Street_Pay_Parking.pdf)

Jaffe, Eric (2012), *Four Reasons Retailers Don't Need Free Parking to Thrive*, The Atlantic: City Lab; at <http://www.citylab.com/work/2012/11/4-reasons-retailers-dont-need-free-parking-thrive/3978/>

Tyler, Sophie; Semper, Giles; Guest, Peter and Fieldhouse, Ben (2012), *The Relevance of Parking in the Success of Urban Centres, A Review for London Councils*

Wieck, Angie (2016), *City planners, business owners gather for North Dakota Downtown Conference*, Fargo Forum: at <http://admin.inforum.com/business/4140625-city-planners-business-owners-gather-north-dakota-downtown-conference>

Shoup, Donald (1997), *The High Cost of Free Parking*, Journal of Planning Education and Research

HOUSE POLITICAL SUBDIVISION COMMITTEE
February 3, 2017 - 9:00 a.m. – Prairie Room
North Dakota Department of Transportation
Steve Salwei, P.E. – Transportation Programs Director
HB 1364

Mr. Chairman and members of the Committee, good morning, my name is Steve Salwei, Transportation Programs Director, for the North Dakota Department of Transportation (DOT). The Department opposes HB 1364.

The North Dakota Department of Transportation supports local decision making. We believe that North Dakota's communities are best positioned to understand the parking challenges and solutions, impacting their residents and businesses. Instead of adding home rule counties and cities to Section 39-01-09 of the North Dakota Century Code, we believe the entire section should be repealed.

One of the duties defined in state statute for the Department is to ensure the state has an integrated transportation system. To accomplish this task, we work closely with cities, counties and townships. In cities we assist them with the plans and the implementation of those plans by providing resources for transportation enhancements. As we work with those communities we encounter many challenges. Because resources are limited to address all of those challenges both the cities and the Department are required to prioritize projects and use all available transportation strategies to lower the costs for improvements.

Oftentimes one of the challenges encountered is parking. Management of parking requires communities to consider and assess a number of options. High demand areas such as downtowns, educational and hospital campuses, and other concentrated places of retail and employment face a variety of parking challenges. To ensure the success of these locations, communities typically develop and implement parking management strategies which consider: on and off-street parking supply; pricing of parking; marketing; and parking enforcement. On-street parking is often a key resource used within an overall parking management strategy to address short-term parking needs. Transportation industry experts recognize that one of the most common tools for effectively managing on-street parking challenges is through the use of metered parking. Without the ability to meter parking, the state is removing one of the tools from the cities in their ability to address the parking challenges.

The first parking meters were introduced in the 1930s as a tool to manage high demand parking areas. When appropriate pricing techniques are used, parking meters have been found to be an effective tool in managing on-street parking supply by increasing turn-over and providing more parking access for customers.

By allowing cities to use parking meters, we would be adding another tool in the toolbox to address one of the many challenges in transportation. By having more options, we believe we can lower infrastructure costs.

In closing, we believe that North Dakota's communities are best positioned to understand the parking challenges and solutions. For these reasons we oppose HB 1364, and recommend Section 39-01-09 of the North Dakota Century Code be repealed.

Mr. Chairman, that concludes my testimony, I would be happy to answer any questions you may have. Thank you.

CHAPTER 40-05.1
HOME RULE IN CITIES

40-05.1-00.1. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "City officers" means the elected and appointed officers of the city and includes the governing body of the city and its members.
2. "Executive officer" means the chief officer in whom resides the power to execute the laws of the city.
3. "Governing body" means the body which performs the legislative functions of the city.

40-05.1-01. Enabling clause.

Any city may frame, adopt, amend, or repeal home rule charters as provided in this chapter.

40-05.1-02. Methods of proposing home rule charter.

The governing body of any city may on its own motion cause a home rule charter to be framed and submitted for adoption to the qualified electors of the city in the manner provided in this chapter, or such proposal may be made in a petition filed with the governing body and signed by not less than fifteen percent of the qualified electors of the city voting in the last city election.

40-05.1-03. Charter commission - Membership - Preparation and submission of charter - Compensation and expenses - Publication or distribution.

Within sixty days after proceedings have been initiated for a home rule charter, the governing body of the city shall appoint a charter commission, composed of at least five members, to frame the charter, unless a petition proposing a charter pursuant to section 40-05.1-02 prescribes the composition of the commission or the manner by which the composition of the commission is to be determined. The chairman of the charter commission shall be designated by the governing body and shall be a charter commission member. Compensation and expenses of commission members shall be as determined by the governing body. The governing body may furnish the charter commission with office space, clerical help, legal and other assistance, and supplies, and may appropriate and pay for same out of its general funds. The charter commission shall hold at least one public hearing on the proposed charter, and may use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the proposed charter. The commission shall prepare and submit the charter within one year after appointment, unless the governing body allows additional time for submission of the charter. The proposed charter shall then be published once in the city's official newspaper as provided in section 40-01-09. However, cities with a population of one thousand or less may, in lieu of publishing the charter in a newspaper, distribute copies of the charter door-to-door and have them posted and available at prominent locations in the city. In the event a city does not publish the charter in a newspaper, it must still publish a notice of the election.

40-05.1-04. Submission of charter to electors.

At least sixty days, but no more than two years, after submission of the charter to the governing body of the city, the proposed charter must be submitted to a vote of the qualified electors of the city at a regular or special city election, or at any statewide election that is held within that time, or at a special city election held concurrently with any statewide election. If the proposed charter has been submitted to a vote of the qualified electors of the city, the governing body of the city may call a special election to resubmit the proposed charter to a vote of the qualified electors of the city, and the special election must take place at least sixty days after the call for the special election. The governing body may amend the proposed charter prior to its resubmission to the electors.

40-05.1-05. Ratification by majority vote - Supersession of existing charter and state laws in conflict therewith - Filing of copies of new charter.

If a majority of the qualified voters voting on the charter at the election vote in favor of the home rule charter, the charter is ratified and is the organic law of the city, and extends to all its local and city matters. The charter and the ordinances made pursuant to the charter in such matters supersede within the territorial limits and other jurisdiction of the city any law of the state in conflict with the charter and ordinances and must be liberally construed for such purposes. One copy of the charter ratified and approved must be filed with the secretary of state and one with the auditor of the city to remain as a part of its permanent records. Thereupon the courts shall take judicial notice of the new charter.

40-05.1-05.1. Multicity home rule.

1. Two or more cities may draft and submit for adoption a multicounty home rule charter to the electors of each city pursuant to this section. The other provisions of this chapter apply to a multicounty home rule charter, except as otherwise provided by this section.
2. The process for drafting and submitting a multicounty home rule charter may be initiated by:
 - a. Separate motions by the governing bodies of the participating cities;
 - b. The execution of a joint powers agreement between participating cities; or
 - c. A petition filed with each governing body of two or more cities and signed by ten percent or more of the total number of qualified electors of each city voting for governor at the most recent gubernatorial election.
3. Within sixty days after proceedings are initiated for a multicounty home rule charter, the boards of governing bodies shall enter into a joint powers agreement specifying the procedure for framing the charter, which may include the establishment of a single cooperative charter commission with membership representing each city. As an alternative, the governing bodies in each affected city may establish a separate charter commission pursuant to section 40-05.1-03 to frame the charter in cooperative study with the charter commission of any other affected city. The charter commissions must submit a single joint report and proposed charter.
4. The charter commission, during its deliberation, may hold public hearings and community forums and use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion on the subject of the proposed multicounty home rule charter, and may report periodically to the affected governing bodies on their progress. In preparing the charter, the charter commission may:
 - a. Include any of the available powers enumerated in section 40-05.1-06;
 - b. Provide for adjustment of existing bonded indebtedness and other obligations in a manner which will provide for a fair and equitable burden of taxation for debt service;
 - c. Provide for the transfer or other disposition of property and other rights, claims, assets, and franchises of the cities;
 - d. Provide for the reorganization, abolition, or adjustment of boundaries of any existing boards, commissions, agencies, and special districts of the city governments, including city park districts;
 - e. Include provisions for transition in implementing the charter, including elements that consider the reasonable expectations of current officeholders or personnel such as delayed effective dates for implementation at the end of a current term or a future term, upon the occurrence of a vacancy, or on a date certain;
 - f. Include provision for the limited application or temporary implementation of the charter, including provisions that permit implementation on an experimental or pilot basis such as the expiration of the charter on a date certain in the future, required reapproval of the charter by the electors at a future date, or a phased-in implementation of various aspects of the charter; and
 - g. Include other provisions that the charter commission elects to include and which are consistent with state law.

5. The proposed charter or accurate summary of the charter must be published in the official newspaper of each affected city, at the expense of each city, at least once during two different weeks within the thirty-day period immediately preceding the date of election. However, a city with a population of one thousand or less may, instead of publishing the charter in a newspaper, distribute copies of the charter door-to-door and have them posted and available at prominent locations in the city.
6. If a majority of the qualified electors voting in each city on the charter vote in favor of the multicity home rule charter, it is ratified and becomes the organic law of the cities on the first day of January following the election or other effective date specified in the charter.
7. The amendment or repeal of a multicity home rule charter may proceed pursuant to the amendment and repeal provisions of section 40-05.1-07 on a multicity basis. A majority vote of the qualified electors voting in each city in the election is required to adopt any amendment of a multicity charter. A majority vote of the qualified electors of only one or more participating cities is required to repeal a multicity charter.

40-05.1-06. Powers.

From and after the filing with the secretary of state of a charter framed and approved in reasonable conformity with the provisions of this chapter, such city, and the citizens thereof, shall, if included in the charter and implemented through ordinances, have the following powers set out in this chapter:

1. To acquire, hold, operate, and dispose of property within or without the corporate limits, and, subject to chapter 32-15, exercise the right of eminent domain for such purposes.
2. To control its finances and fiscal affairs; to appropriate money for its purposes, and make payment of its debts and expenses; to levy and collect taxes, excises, fees, charges, and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements; to contract debts, borrow money, issue bonds, warrants, and other evidences of indebtedness; to establish charges for any city or other services; and to establish debt and mill levy limitations. Notwithstanding any authority granted under this chapter, all property must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments and all taxable property must be taxed by the city at the same rate unless otherwise provided by law. The authority to levy taxes under this subsection does not include authority to impose income taxes.
3. To fix the fees, number, terms, conditions, duration, and manner of issuing and revoking licenses in the exercise of its governmental police powers.
4. To provide for city officers, agencies, and employees, their selection, terms, powers, duties, qualifications, and compensation. To provide for change, selection, or creation of its form and structure of government, including its governing body, executive officer, and city officers.
5. To provide for city courts, their jurisdiction and powers over ordinance violations, duties, administration, and the selection, qualifications, and compensation of their officers; however, the right of appeal from judgment of such courts shall not be in any way affected.
6. To provide for all matters pertaining to city elections, except as to qualifications of electors.
7. To provide for the adoption, amendment, and repeal of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare, and penalties for a violation thereof.
- ✓ 8. To lay out or vacate streets, alleys, and public grounds, and to provide for the use, operation, and regulation thereof.
9. To define offenses against private persons and property and the public health, safety, morals, and welfare, and provide penalties for violations thereof.

10. To engage in any utility, business, or enterprise permitted by the constitution or not prohibited by statute or to grant and regulate franchises therefor to a private person, firm, corporation, or limited liability company.
- ✓ 11. To provide for zoning, planning, and subdivision of public or private property within the city limits. To provide for such zoning, planning, and subdivision of public or private property outside the city limits as may be permitted by state law.
12. To levy and collect franchise and license taxes for revenue purposes.
13. To exercise in the conduct of its affairs all powers usually exercised by a corporation.
14. To fix the boundary limits of said city and the annexation and deannexation of territory adjacent to said city except that such power shall be subject to, and shall conform with the state law made and provided.
15. To contract with and receive grants from any other governmental entity or agency, with respect to any local, state, or federal program, project, or works.
16. To impose registration fees on motor vehicles, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, or sales and use taxes in addition to any other taxes imposed by law. After December 31, 2005, sales and use taxes and gross receipts taxes levied under this chapter:
 - a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of fuel used to power motor vehicles, aircraft, locomotives, or watercraft, or to electricity, piped natural or artificial gas, or other fuels delivered by the seller or the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.
 - b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.
 - c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax purposes, except for farm machinery gross receipts tax.
 - d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1 and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.

✓ It is the intention of this chapter to grant and confirm to the people of all cities coming within its provisions the full right of self-government in both local and city matters within the powers enumerated herein. The statutes of the state of North Dakota, so far as applicable, shall continue to apply to home rule cities, except insofar as superseded by the charters of such cities or by ordinance passed pursuant to such charters.

After December 31, 2005, any portion of a charter or any portion of an ordinance passed pursuant to a charter which does not conform to the requirements of subsection 16 is invalid to the extent that it does not conform. The invalidity of a portion of a charter or ordinance because it does not conform to subsection 16 does not affect the validity of any other portion of the charter or ordinance or the eligibility for a refund under section 57-01-02.1. Any taxes imposed under this chapter on farm machinery, farm irrigation equipment, and farm machinery repair parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect on December 31, 2005, become gross receipts taxes after December 31, 2005.

40-05.1-06.1. Sales tax revenue transfer to school districts prohibited.

Notwithstanding the provisions of chapters 54-40 and 54-40.3 or any other provision of law, revenue from sales, use, or other excise taxes levied under this chapter may not be transferred to or for the primary benefit of a school district except for payment of bonded indebtedness incurred before April 19, 2007, or for capital construction and associated costs approved by the electors of the city before April 19, 2007.

40-05.1-07. Amendment or repeal.

The home rule charter adopted by any city may be amended or repealed by proposals submitted to and ratified by the qualified electors of the city in the same general manner provided in sections 40-05.1-02 and 40-05.1-04 for the adoption of the charter. Amendments may be proposed by the governing body of the city or by petition of the number of electors provided in section 40-05.1-02 and submitted to the voters at the same election. The voters may at their option accept or reject any or all of the amendments by a majority vote of qualified electors voting on the question at the election. A proposal to repeal a home rule charter that has been adopted must likewise be submitted to the electors of the city as set forth in this section. One copy of a ratified amendment or a repeal of a home rule charter must be filed with the secretary of state and one with the city auditor. Upon proper filing of the amendment or repeal, the courts shall take judicial notice of the amendment or repeal.

40-05.1-08. Commission - Terms of office - Vacancies.

The terms of office of the members of the charter commission shall be four years. Any vacancy on said commission shall be filled by the governing body of the city.

40-05.1-09. Restriction on proposals to amend or repeal.

Repealed by S.L. 1993, ch. 401, § 53.

40-05.1-10. Manner of calling and holding elections.

The elections provided for in this chapter shall be called and held in the same manner as is provided for the calling and holding of city elections except that all qualified voters of the city shall be eligible to vote at such elections. The form of ballot shall be prescribed by the charter commission so that the voter may signify whether the voter is for or against the proposed home rule charter or the amendment or repeal, as the case may be.

40-05.1-11. Effect of amendment or repeal on salary or term of office.

Repeal of a home rule charter shall cause the city affected by such repeal to revert to the form of government of such city immediately preceding adoption of the home rule charter and when positions to which officials were elected under the home rule charter are substantially the same as positions under the form of government to which the city reverts upon repeal, such elected officials shall continue to exercise the authority of such position for the salary prescribed by the home rule charter until expiration of their terms of office as prescribed by the home rule charter. No amendment of a home rule charter shall shorten the term for which any official was elected or reduce the salary of the official's office for that term.

40-05.1-12. Former powers preserved.

All powers heretofore granted any city by general law are hereby preserved to each home rule city, respectively, and the powers so conferred upon said cities by general law, are hereby granted to home rule cities.

40-05.1-13. Vested property - Claims for relief - Actions saved.

The adoption of any charter hereunder or any amendment thereof shall never be construed to destroy any property, action, claims for relief, claims, and demands of any nature or kind whatever vested in the city under and by virtue of any charter theretofore existing or otherwise accruing to the city, but all such claims for relief, claims, or demands vest in and inure to the city and to any persons asserting any such claims against the city as fully and completely as though the said charter or amendment had not been adopted hereunder. The adoption of any charter or amendment hereunder shall never be construed to affect the right of the city to collect by special assessment any special assessment theretofore levied under any law or charter for the purpose of public improvements, nor affect any right of any contract or obligation existing between the city and any person, firm, corporation, or limited liability company for the making of any such improvements and for the purpose of collecting any such special assessments and carrying out of any such contract.

ARTICLE VII POLITICAL SUBDIVISIONS

Section 1. The purpose of this article is to provide for maximum local self-government by all political subdivisions with a minimum duplication of functions.

Section 2. The legislative assembly shall provide by law for the establishment and the government of all political subdivisions. Each political subdivision shall have and exercise such powers as provided by law.

Section 3. The several counties of the state of North Dakota as they now exist are hereby declared to be counties of the state of North Dakota.

Section 4. The legislative assembly shall provide by law for relocating county seats within counties, but it shall have no power to remove the county seat of any county.

Section 5. Methods and standards by which all or any portion of a county or counties may be annexed, merged, consolidated, reclassified, or dissolved shall be as provided by law. No portion of any county or counties shall be annexed, merged, consolidated, or dissolved unless a majority of the electors of each affected county voting on the question so approve.

Section 6. The legislative assembly shall provide by law for the establishment and exercise of home rule in counties and cities. No home rule charter shall become operative in any county or city until submitted to the electors thereof and approved by a majority of those voting thereon. In granting home rule powers to cities, the legislative assembly shall not be restricted by city debt limitations contained in this constitution.

Section 7. The legislative assembly shall also provide by law for optional forms of government for counties, but no optional form of government shall become operative in any county until submitted to the electors thereof at a special or general election, and approved by a majority of those voting thereon.

Until one of the optional forms of county government is adopted by any county, the fiscal and administrative affairs of the county shall be governed by a board of county commissioners as provided by law.

Section 8. Each county shall provide for law enforcement, administrative and fiscal services, recording and registration services, educational services, and any other governmental services or functions as may be provided by law. Any elective office provided for by the counties shall be for a term of four years. Elective officers shall be elected by the electors in the jurisdiction in which the elected officer is to serve. A candidate for election for sheriff must be a resident in the jurisdiction in which the candidate is to serve at the time of the election. The office of sheriff shall be elected. The legislative assembly may provide by law for the election of any county elective officer, other than the sheriff, to serve one or more counties provided the affected counties agree to the arrangement and any candidate elected to the office is a qualified elector of one of the affected counties.

Section 9. Questions of the form of government to be adopted by any county or on the elimination or reinstatement of elective county offices may be placed upon the ballot by petition of electors of the county equal in number to twenty-five percent of the votes cast in the county for the office of governor at the preceding gubernatorial election.

Section 10. Agreements, including those for cooperative or joint administration of any powers or functions, may be made by any political subdivision with any other political subdivision, with the state, or with the United States, unless otherwise provided by law or home rule charter. A political subdivision may by mutual agreement transfer to the county in which it is located any of its powers or functions as provided by law or home rule charter, and may in like manner revoke the transfer.

Section 11. The power of the governing board of a city to franchise the construction and operation of any public utility or similar service within the city shall not be abridged by the legislative assembly.

**CHAPTER 11-09.1
HOME RULE COUNTIES**

11-09.1-01. Methods of proposing home rule charter.

The board of county commissioners may on its own motion cause a home rule charter to be drafted and submitted for adoption to the electors of the county in the manner provided in this chapter. A home rule proposal may be initiated in a petition filed with the board of county commissioners and signed by qualified electors of the county not fewer in number than two percent of the population of the county.

11-09.1-02. Charter commission - Membership - Preparation and submission of charter - Compensation and expenses - Publication.

Within sixty days after proceedings have been initiated for a home rule charter, the board of county commissioners shall appoint a charter commission, comprised of at least five members, to draft the charter, unless a petition proposing a charter pursuant to section 11-09.1-01 prescribes the composition of the commission or the manner by which the composition of the commission is to be determined. The board shall designate one of the charter commission members as chairman of the charter commission. The board shall set the compensation and expenses of charter commission members. Actual expenses incurred by charter commission members may be reimbursed at the official reimbursement rates of the appointing authority. The board, from its general funds, may furnish the charter commission with office space, clerical help, supplies, and legal and other assistance. The charter commission shall hold at least one public hearing on the proposed charter and may use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the proposed charter. The commission shall prepare and submit the charter to the board of county commissioners within one year after appointment, unless the board allows additional time for submission of the charter. The charter must contain a list of county offices to be elected and any elected offices that will be eliminated or combined if the charter is adopted. The board of county commissioners shall publish the proposed charter once in the official newspaper of the county.

11-09.1-03. Submission of charter to electors.

At least sixty days, but no more than two years, after submission of the charter to the board of county commissioners, the proposed charter must be submitted to a vote of the qualified electors of the county at a primary or general election. If the proposed charter has been submitted to a vote of the qualified electors of the county, the board of county commissioners may call a special election to resubmit the proposed charter to a vote of the qualified electors of the county, and the special election must take place at least sixty days after the call for the special election. The board may amend the proposed charter prior to its resubmission to the electors.

11-09.1-04. Ratification by majority vote - Supersession of existing charter and conflicting state laws - Filing of copies of new charter.

If a majority of the qualified electors voting on the charter at the election vote in favor of the home rule charter, it is ratified and becomes the organic law of the county on the first day of January or July next following the election, and extends to all its county matters. The charter and the ordinances made pursuant to the charter in county matters must be liberally construed to supersede within the territorial limits and jurisdiction of the county any conflicting state law except for any state law as it applies to cities or any power of a city to govern its own affairs, without the consent of the governing body of the city. The charter may not authorize the enactment of ordinances to diminish the authority of a board of supervisors of a township or to change the structure of township government in any organized civil township, without the consent of the board of supervisors of the township. No ordinance of a home rule county shall supersede section 49-22-16. One copy of the charter as ratified and approved must be filed with the secretary of state; one with the recorder for the county, unless the board of county

commissioners designates a different official; and one with the auditor of the county to remain as a part of its permanent records. Courts shall take judicial notice of the charter.

11-09.1-04.1. Multicounty home rule.

1. Two or more counties may draft and submit for adoption a multicounty home rule charter to the electors of each county pursuant to this section. The other provisions of this chapter apply to a multicounty home rule charter, except as otherwise provided by this section.
2. The process for drafting and submitting a multicounty home rule charter may be initiated by:
 - a. Separate motions by the boards of county commissioners of the participating counties;
 - b. The execution of a joint powers agreement between participating counties; or
 - c. A petition filed with each board of county commissioners of two or more counties and signed by ten percent or more of the total number of qualified electors of each county voting for governor at the most recent gubernatorial election.
3. Within sixty days after proceedings are initiated for a multicounty home rule charter, the boards of county commissioners shall enter into a joint powers agreement specifying the procedure for framing the charter, which may include the establishment of a single cooperative charter commission with membership representing each county. As an alternative, the boards of county commissioners in each affected county may establish a separate charter commission pursuant to section 11-09.1-02 to frame the charter in cooperative study with the charter commission of any other affected county. The charter commissions must submit a single joint report and proposed charter.
4. A charter commission, during its deliberation, may hold public hearings and community forums and use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion on the subject of the proposed multicounty home rule charter, and may report periodically to the affected governing bodies on their progress. In preparing the charter, the charter commission may:
 - a. Include any, or all, of the available powers enumerated in section 11-09.1-05, subject to the limitations of that section;
 - b. Provide for adjustment of existing bonded indebtedness and other obligations in a manner that will provide for a fair and equitable burden of taxation for debt service;
 - c. Provide for the transfer or other disposition of property and other rights, claims, assets, and franchises of the counties;
 - d. Provide for the reorganization, abolition, or adjustment of boundaries of any existing boards, commissions, agencies, and special districts of the county government;
 - e. Include provisions for transition in implementing the charter, including elements that consider the reasonable expectations of current officeholders such as delayed effective dates for implementation at the end of a current term or a future term, upon the occurrence of a vacancy, or on a date certain;
 - f. Include provision for the limited application or temporary implementation of the charter, including provisions that permit implementation on an experimental or pilot basis such as the expiration of the charter on a date certain in the future, required reapproval of the charter by the electors at a future date, or a phased-in implementation of various components of the charter; and
 - g. Include other provisions that the charter commission elects to include and which are consistent with state law.
5. The proposed charter or accurate summary of the charter must be published in the official newspaper of each affected county, at least once during two different weeks within the thirty-day period immediately preceding the date of election.
6. If a majority of the qualified electors voting in each county on the charter votes in favor of the multicounty home rule charter, it is ratified and becomes the organic law of the

multicounty area on the first day of January following the election or other effective date specified in the charter.

7. The amendment or repeal of a multicounty home rule charter may proceed pursuant to the amendment and repeal provisions of section 11-09.1-06 on a multicounty basis. A majority vote of the qualified electors voting in each county in the election is required to adopt any amendment of a multicounty charter. A majority vote of the qualified electors of only one or more participating counties is required to repeal a multicounty charter.

11-09.1-05. Powers.

After the filing with the secretary of state of a charter approved in reasonable conformity with this chapter, the county and its citizens may, if included in the charter and implemented through ordinances:

1. Acquire, hold, operate, and dispose of property within or without the county limits, and, subject to chapter 32-15, exercise the right of eminent domain for those purposes.
2. Control its finances and fiscal affairs; appropriate money for its purposes, and make payments of its debts and expenses; subject to the limitations of this section levy and collect property taxes, sales and use taxes, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, motor vehicle fuels and special fuels taxes, motor vehicle registration fees, and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements; contract debts, borrow money, issue bonds, warrants, and other evidences of indebtedness; establish charges for any county or other services to the extent authorized by state law; and establish debt and mill levy limitations. Notwithstanding any authority granted under this chapter, all property must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments and all taxable property must be taxed by the county at the same rate unless otherwise provided by law. A charter or ordinance or act of a governing body of a home rule county may not supersede any state law that determines what property or acts are subject to, or exempt from, ad valorem taxes. A charter or ordinance or act of the governing body of a home rule county may not supersede section 11-11-55.1 relating to the sixty percent petition requirement for improvements and of section 40-22-18 relating to the barring proceeding for improvement projects. After December 31, 2005, sales and use taxes, farm machinery gross receipts taxes, and alcoholic beverage gross receipts taxes levied under this chapter:
 - a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of fuel used to power motor vehicles, aircraft, locomotives, or watercraft, or to electricity, piped natural or artificial gas, or other fuels delivered by the seller or the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.
 - b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.
 - c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax, except for farm machinery gross receipts tax purposes.
 - d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1 and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.

After December 31, 2005, any portion of a charter or any portion of an ordinance or act of a governing body of a home rule county passed pursuant to a charter which does not conform to the requirements of this subsection is invalid to the extent that it does not conform. The invalidity of a portion of a charter or ordinance or act of a governing body of a home rule county because it does not conform to this subsection does not affect the validity of any other portion of the charter or ordinance or act of a governing body of a home rule county or the eligibility for a refund under section 57-01-02.1. Any taxes imposed under this chapter on farm machinery, farm irrigation equipment, and farm machinery repair parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect on December 31, 2005, become gross receipts taxes after December 31, 2005.

3. Provide for county elected and appointed officers and employees, their selection, powers, duties, qualifications, and compensation, and the terms of county appointed officers and employees. However, after adoption of a home rule charter, a county elected office may not be eliminated or combined with another office except upon approval of a majority of the electors of the county voting upon the question at a primary or general election or pursuant to the county officer combination, separation, or redesignation procedures of chapter 11-10.2. A home rule charter may not diminish the term of office for which a current county officer was elected, redesignate that elected office during that term as appointed, or reduce the salary of the office for that term. This subsection does not authorize a county to redesignate the elected offices of sheriff and state's attorney as appointed, except as provided in section 11-10-02.3.
4. Provide for all matters pertaining to county elections, except as to qualifications of electors.
5. Provide for the adoption, amendment, repeal, initiative, referral, enforcement, and civil and criminal penalties for violation of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare. However, this subsection does not confer any authority to regulate any industry or activity which is regulated by state law or by rules adopted by a state agency.
6. Lay out or vacate public grounds, and provide through its governing body for the construction, use, operation, designation, and regulation of a county road system.
7. Provide for zoning, planning, and subdivision of public or private property within the county limits but outside the zoning authority of any city or organized township.
8. Exercise in the conduct of its affairs all powers usually exercised by a corporation.
9. Contract with and receive grants from any other governmental entity or agency, with respect to any local, state, or federal program, project, or works.

The people of all counties coming within this chapter have the full right of self-government in all matters within the powers enumerated in this chapter. The statutes of this state, so far as applicable, continue to apply to counties, except as superseded by the charters of the counties or by ordinances passed pursuant to the charters.

11-09.1-05.1. Sales tax revenue transfer to school districts prohibited.

Notwithstanding the provisions of chapters 54-40 and 54-40.3 or any other provision of law, revenue from sales, use, or other excise taxes levied under this chapter may not be transferred to or for the primary benefit of a school district except for payment of bonded indebtedness incurred before April 19, 2007, or for capital construction and associated costs approved by the electors of the county before April 19, 2007.

11-09.1-06. Amendment or repeal.

The home rule charter adopted by any county may be amended or repealed by a proposal by the governing body of the county or by petition of the number of electors provided in section 11-09.1-01, submitted to and ratified by the qualified electors of the county. A petition to amend or repeal a home rule charter must be submitted to the governing body of the county. Within thirty days of receipt of a valid petition or approval of a proposal to amend or repeal a home rule charter, the governing body of the county shall publish any proposed amendment or repeal of a

home rule charter once in the official newspaper of the county. At least sixty days after publication, the proposed amendment or repeal must be submitted to a vote of the qualified electors of the county at the next primary or general election. The electors may accept or reject any amendment or a repeal by a majority vote of qualified electors voting on the question at the election.

11-09.1-07. Commission - Terms of office - Vacancies.

The board of county commissioners shall determine the term of office of the members of the charter commission at the time the members are appointed. The board of county commissioners shall fill any vacancy on the charter commission.

11-09.1-08. Restriction on proposals to amend or repeal.

Repealed by S.L. 1993, ch. 401, § 53.

11-09.1-09. Manner of calling and holding elections.

The elections provided for in this chapter are subject to the laws applicable to other elections of the county. All qualified electors of the county are eligible to vote at the election. The charter commission, for proposals to adopt a home rule charter, or the governing body of the county, for proposals to amend or repeal a home rule charter, shall prescribe the form of ballot so that the voter may signify whether the voter is for or against the proposed home rule charter or the amendment or repeal.

11-09.1-10. Effect of amendment or repeal on salary or term of office.

On the first day of January following repeal of a home rule charter, the county reverts to the form of government of the county immediately preceding adoption of the home rule charter. If positions to which officials were elected under the home rule charter are substantially the same as positions under the form of government to which the county reverts upon repeal, the elected officials shall continue to exercise the authority of their positions for the salary prescribed by the home rule charter until expiration of their terms of office as prescribed by the home rule charter. No amendment of a home rule charter may shorten the term for which any official was elected or reduce the salary of the official's office for that term.

11-09.1-11. General powers preserved.

All powers granted counties by general law are powers of home rule counties.

11-09.1-12. Vested property - Rights of action - Actions saved.

The adoption of any charter or amendment does not destroy any property, action, right of action, claim, or demand of any nature vested in the county. All rights of action, claims, or demands are preserved to the county and to any persons asserting any claims against the county as completely as though the charter or amendment had not been adopted. The adoption of any charter or amendment affects neither the right of the county to collect special assessments previously levied under any law or charter for the purpose of public improvements, nor impairs the obligation of any existing contract to which the county is a party.

11-09.1-13. Enforcement of criminal penalties.

A county that has adopted a home rule charter may impose a penalty for a violation of an ordinance through a citation, a criminal complaint, or an information through the district court in the county where the offense occurred. The penalty for a violation of an ordinance may be an infraction or a class B misdemeanor.

11-09.1-14. Payment of expenses for indigent defense services.

The home rule county must pay for an attorney and those expenses necessary for the adequate defense of an indigent person prosecuted for violation of a home rule county ordinance.