

352.92
W7d
138
X

RETURN TO
LEGISLATIVE
REFERENCE LIBRARY
MADISON 2, WISCONSIN

WISCONSIN - LEGISLATIVE REFERENCE LIBRARY

Five proposals to abandon the
constitutional requirement for
uniform county government
introduced in the Wisconsin
legislature since 1937

1958

Brief no.72

LRL-B-572

BRIEF NO. 72. Five Proposals to Abandon the Constitutional Requirement for Uniform County Government Introduced in the Wisconsin Legislature Since 1937.

Prepared by the Wisconsin Legislative Reference Library, Dec. 1958

The Wisconsin Constitution provides in Article IV, section 23, that "The legislature shall establish but one system of town and county government, which shall be as nearly uniform as practicable". This provision which appears in the original Constitution, has never been amended although in the formative days of governmental organization in this state the type of county government permitted under this provision vacillated between the so-called commission and supervisor systems. Since 1870 the supervisor system has been in effect throughout the state.

Aside from the study prior to the 1955 legislative session aimed at revising chapter 59 relating to counties, the last full-blown study of county government in Wisconsin was that conducted during the 1945-47 interim as a result of Joint Resolution No. 48, A. of 1945. The committee conducting this study was composed of 7 legislators and 6 private citizens and reported to the 1947 Legislature. Their proposal to recommend that the Constitution be amended to permit the selection by counties of optional forms of government by a majority vote of the county electors at large was rejected by the committee 7 to 6 with the 7 legislators voting against it and the 6 citizens voting for it. An alternative proposal to permit counties to select optional forms of government by a majority vote in a majority of the municipalities in the county failed 10 to 3.

Sporadic efforts to soften the rigidity of the constitutional requirement of uniformity have been made throughout the history of the state. No less than 10 efforts have been made since 1937.

On the following pages are 5 proposals considered since 1937 which provide different approaches to the procedure for eliminating the uniformity requirement.

1. Joint Resolution No. 38, A., 1937. Introduced by Mr. Ludvigsen. Indefinitely postponed 49 to 25.

"JOINT RESOLUTION

To amend section 23 of article IV of the constitution, relating to uniformity of county government.

Resolved by the assembly, the senate concurring, That section 23 of article IV of the constitution be amended to read: (Article IV) Section 23. The legislature shall establish but one system of town and county government, which shall be as nearly uniform as practicable. Notwithstanding the provisions of this section, the legislature may by general law provide for complete forms of county organization and government different from that provided in this section, to become effective in any county, when submitted to the qualified voters thereof in an election held for such purpose and approved by a majority of those voting therein. Be it further

Resolved, That the foregoing proposed amendment to the

constitution be published for three months previous to the term of holding the next general election, and is hereby referred to the legislature to be chosen at such election."

An amendment which was adopted would have revised the text of section 23 of Article IV as follows:

The legislature shall establish but one system of town and county government, which shall be as nearly uniform as practicable, except that the legislature may by general law provide for more than one system of county government, but not exceeding three, to become effective in any county when submitted to the electors thereof and approved by a majority of the electors voting thereon in each of a majority of the political subdivisions of such county.

2. Joint Resolution No. 60, A., 1939. By Mr. Daugs. Adopted 73-5 and concurred in 18-7. Enrolled as Joint Resolution 95. The proposal was submitted for second consideration as Joint Resolution 22, A. in 1941 by Mr. Daugs, but was rejected by the assembly 64-18.

"JOINT RESOLUTION

To amend sections 22 and 23 of article IV and sections 4 of article VI of the constitution, relating to uniformity of county government.

Resolved by the Assembly, the Senate concurring, That sections 22 and 23 of article IV and section 4 of article VI of the constitution be amended to read: (Article IV) Section 22. The legislature may confer upon the * * * governing bodies of the several counties of the state such powers of a local, legislative and administrative character as they shall from time to time prescribe.

Section 23. The legislature shall establish but one system of town * * * government, which shall be as nearly uniform as practicable. The legislature shall classify counties and provide suitable systems of county government for each class. Counties may select a suitable system of county government from the systems so provided by the legislature.

(Article VI) Section 4. Sheriffs, coroners, registers of deeds, district attorneys, and all other county officers except judicial officers, shall be chosen by the electors of the respective counties once in every two years. Sheriffs shall hold no other office, and shall not serve more than two terms or parts thereof in succession; they may be required by law to renew their security from time to time, and in default of giving such new security their office shall be deemed vacant, but the county shall never be made responsible for the acts of the sheriff. The governor may remove any officer in this section mentioned, giving to such a copy of the charges against him and an opportunity of being heard in his defense. All vacancies shall be filled by appointment, and the person appointed to fill a vacancy shall hold only for the unexpired portion of the term to which he shall be appointed and until his successor shall be elected and qualified. This section shall not prohibit the selection of all or any of the officers enumerated herein otherwise than by election,

or the abolition of all or any of such offices, when the legislature acts under the authority of sections 22 and 23 of article IV.

Resolved, That the foregoing proposed amendment to the constitution be published for three months previous to the time of holding the next general election, and is hereby referred to the legislature to be chosen at such election."

Adopted 73-5 and 18-7.

3. Proposal of the Joint Committee to Study County Government, 1947. A subcommittee on constitutional amendment of the county government study committee proposed a joint resolution to amend the required portions of the Constitution. This proposal was introduced by Mr. Thomson in 1947 as Joint Resolution No. 37; A., but it was rejected 53-33. Note the optional initiative clauses suggested.

"JOINT RESOLUTION

To amend sections 22 and 23 of article IV, section 12 of article VII and section 4 of article VI of the constitution, relating to uniformity of county government.

Resolved by the assembly, the senate concurring, That sections 22 and 23 of article IV, section 12 of article VII, and section 4 of article VI of the constitution be amended to read:

'(Article IV) Section 22. The legislature may confer upon the ~~boards-of-supervisors~~ governing bodies of the several counties of the state such powers of a local, legislative and administrative character as they shall from time to time prescribe.

Section 23. The legislature shall establish but one system of town and-county government, which shall be as nearly uniform as practicable. The legislature shall provide by general law for the government of counties, and may provide optional systems of county government, but no such optional system shall become operative or be discontinued in favor of any other system in any county until submitted to the electors thereof and approved by a majority of those voting thereon. The electors of each county may by petition initiate proposals for the adoption of an optional system or for the discontinuance thereof or of an existing system in favor of any other system, and the legislature shall provide the procedure therefor.* The system of government in effect in any county at the time this amendment becomes effective shall remain in effect until changed pursuant to the provisions of this section.

'(Article VI) Section 4. Sheriffs, coroners, registers of deeds, district attorneys, and all other county officers except judicial officers, shall be chosen by the electors of the respective counties once in every 2 years. Sheriffs shall hold no other office, and shall not serve more than 2 terms or parts thereof in succession; they may be required by law to renew their security from time to time, and in default of giving such new security their office shall

*For footnote see end of joint resolution.

be deemed vacant, but the county shall never be made responsible for the acts of the sheriff. The governor may remove any officer in this section mentioned, giving to such a copy of the charges against him and an opportunity of being heard in his defense. All vacancies shall be filled by appointment, and the person appointed to fill a vacancy shall hold only for the unexpired portion of the term to which he shall be appointed and until his successor shall be elected and qualified. This section shall not prohibit the selection of all or any of the officers enumerated herein, except the district attorney, otherwise than by election or the abolition of all or any of such offices, except the district attorney, when the legislature acts under the authority of sections 22 and 23 of article IV.

(Article VII) Section 12. There shall be a clerk of the circuit court chosen in each county organized for judicial purposes by the qualified electors thereof, who shall hold his office for 2 years, subject to removal as shall be provided by law; in case of a vacancy, the judge of the circuit court shall have power to appoint a clerk until the vacancy shall be filled by an election; the clerk thus elected or appointed shall give such security as the legislature may require. The supreme court shall appoint its own clerk and a clerk of the circuit court may be appointed a clerk of the supreme court. This section shall not prohibit the selection of the clerk of the circuit court otherwise than by election nor the abolition of such office, when the legislature acts under authority conferred by sections 22 and 23 of article IV. And be it further

Resolved, That the foregoing proposed amendment to the constitution be published for three months previous to the time of holding the next general election, and is hereby referred to the legislature to be chosen at such election."

*The following are two other forms of stating the initiative clause:

I

The legislature shall provide for initiative proceedings by the electors of a county for the adoption of an optional system or the discontinuance thereof or of an existing system in favor of any other system.

II

The legislature shall grant to the electors of any county the right by petition to initiate a proposal for the adoption of an optional system or for the discontinuance thereof or of an existing system in favor of any other system, and shall provide the procedure therefor.

4. Joint Resolution No. 43, S., 1947. Introduced by Senator McBride by request of John R. Devitt. It was rejected without a roll call vote.

This proposal incorporated other matters. We therefore quote only that portion which would have changed section 23 of Article IV.

"UNIFORM TOWN AND-COUNTY GOVERNMENT; SYSTEMS OF COUNTY GOVERNMENT. Section 23. The legislature shall establish but one system of town and-county government, which shall be as nearly uniform as practicable. The legislature shall provide by general law for the

government of counties, and shall establish thereby one principal system of county government, which shall be designated as the board of supervisors system in effect in any county prior to the establishment by the legislature of optional systems of government pursuant to the provisions of this section and section 22 of article IV. Such principal system of county government shall be as nearly uniform as practicable, but the electors or board of supervisors of any county, in order to decrease the membership of the board, may vote to establish a maximum number of board members and to establish districts within the county by apportioning the members of the board among the towns, cities, and villages of the county according to population as shown by the latest enumeration made by the United States government, and such establishment of supervisor districts and the revision thereof in like manner following each such new enumeration shall not be deemed to constitute a violation of the principle of uniformity. Nor shall the power granted to counties to determine their county affairs, as provided by section 22 of article IV, be deemed to constitute a violation of the principle of uniformity. Nor shall the appointment of county officers or the consolidation or abolition of county offices, pursuant to the provisions of section 4 of article VI and section 12 of article VII, be deemed to constitute a violation of the principle of uniformity. The legislature may provide optional systems of county government, but no such optional system shall be adopted, revised, or discontinued in any county except by the electors thereof pursuant to the provisions of section 22 of article IV. The system of government in effect in any county prior to the establishment by the legislature of such optional systems shall remain in effect until changed pursuant to the provisions of section 22 of article IV."

5. Joint Resolution No. 86, S., 1957. Introduced by Senator Wilkie. It was rejected without roll call on the last day of the session. It follows the proposal of the 1945 committee and is therefore not quoted. Note also Joint Resolution No. 4, A. of 1943 and Joint Resolution No. 12, A. of 1945.