# VILLAGE OF COAL CITY

# FINANCE COMMITTEE MEETING

# WEDNESDAY JULY 27, 2016 6 P.M.

# AGENDA

1. Call meeting to order
2. Financial Assistance from State & Federal Offices/Programs
3. Adjourn

COAL CITY VILLAGE HALL
515 S. BROADWAY, COAL CITY, ILLINOIS

# MEMO

**TO:** Neal Nelson, Trustee
Ross Bradley, Trustee

**FROM:** Matt Fritz, Village Administrator

**DATE:** July 23, 2016

**CC:** Terry Halliday, Mayor
Trustees Bradley, Greggain, Togliatti, and Wren
Chris Brown, Chief Strategies

**RE:** **CONTINUED EFFORTS TO RECEIVE ASSISTANCE FROM STATE & FEDERAL OFFICES/PROGRAMS**

Following the last Regular Board Meeting, I created a draft letter for all of the Village's elected officials requesting continued support to identify programs and means by which the Village can receive support from federal and state programs to augment the capital revenues the Village possesses in order still complete necessary projects despite no longer having the same debt capacity. This letter has been attached. Please review this letter and be prepared to comment and/or edit at the Finance Committee Meeting of July 27th at 6:00pm.

In addition, the letter provided to DCEO that has been utilized continually as Chris Brown and I discuss and review issues with different departments has been provided. After working for many months with this letter in Springfield as well as with our federal representatives, I would like to prioritize these needs so we are properly representing the Board on our list of priorities. We shall continually utilize the November letter to DCEO as our base because the range of infrastructure needs is diverse and crosses a wide spectrum of programs within the State and Federal government.

1.) *$900,000 local match for the upcoming 2017/18 Broadway Reconstruction Project.* The total request within the DCEO letter is $1,997,525 to be utilized for Broadway. Of this amount $900,000 is necessary to provide the local match to leverage $4.5 million in federal funds slated for expenditure on the Broadway Phase One Section within Coal City. In addition to receiving a boost from WCGL's Transportation Improvement Plan (TIP) from $2.0 million to $4.5 million of federal funds, the WCGL Transportation Committee also approved an expenditure of $432,000 of which, Coal City shall need to generate $86,400 in matching funds to complete a resurfacing project on the south end of Broadway. This portion is expected to take place in 2017.

2.) *Road & Sidewalk Maintenance Capital Sinking Fund.* IDOT support for a capital contribution matching the total expenditure of $6.3 million would greatly assist with the rebuilding of the sidewalks and streets within the affected areas. Any amount would be helpful, but such a contribution would directly assist with providing capital to offset future infrastructure investments no longer possible due to the current debt burden. If

IDOT provides funding for such expenditure, the $80,000 per year included within the levy for roads can be utilized to assist with the debt repayment that shall be necessary in a few years. This is a combination of the Sidewalk Restoration and Road Maintenance request within the November letter.

3.) *Rail-fed Industrial Park Improvements Commitment Honored.* This planned assistance of $6,835,000 brings jobs, development, and EAV to the Village that greatly assists with offsetting the existing tax base to pay for the property tax levy items. IDOT and DCEO previously committed these development funds in 2014; this assistance remains a priority. Users for the park have been identified, but the extension of utilities is a major hurdle to the park's startup. The State honoring its commitment will allow the Village from utilizing TIF to entice developers to select this location and result in increment that shall be held by the Village instead of being returned to the first developers to extend the utilities.

4.) *Core Area Façade Improvement Seed Money of $225,000.* The Village has setup a good Façade Improvement Policy that is leading to improvements on Broadway. This program is financed with fund balances. USDA has programs available that would provide the seed money to this revolving loan program instead of Coal City utilizing its own reserves.

5.) *Coaler Lift Station Resiliency Replacement Project of $645,000.* This capital project would further extend the westside interceptor sewer and allow for the removal of another lift station bringing along with drainage improvements and the completion of Oak Street behind the CCHS.

Finally, the village board has been discussing the placement of the question of home rule on the upcoming ballot. This is consistent with the Village's current needs – limit further liabilities and increase the opportunity to generate non-property tax reliant revenues. In order to place the question before voters, the Village Board must adopt an ordinance at its upcoming August 10th Regular Board Meeting in order to gain this tool. The task can be difficult, but Chris Brown is working on providing a public forum at which local Mayors and the Illinois Municipal League (IML) will provide examples of what home rule authority has offered their communities.

Attached hereto are materials that discuss the home rule proposition, what it has been utilized for elsewhere within the State of Illinois. If voted upon favorably by the village's residents, Coal City would join 211 other home rule municipalities with this authority. IML pushed for legislation to move the automatic population count at which to gain this authority downwards to 5,000 residents. Since this legislation did not pass during this past legislative session, it is timely to put the question before Coal City voters rather than wait upon Springfield elected officials to grant such authority.

July 28, 2016

DRAFT

Governor Bruce Rauner
207 Statehouse
Springfield, IL 62706

Senator Mark Kirk
524 Hart Senate Office Building
Washington, DC 20510-1305

Senator Toi Hutchinson
121C Capitol Building
Springfield, IL 62706

Representative Kate Cloonen
225-E Stratton Building
Springfield, IL 62706

Senator Richard Durbin
711 Hart Senate Office Building
Washington, DC 20510

Representative Adam Kinzinger
1221 Longworth HOB
Washington, DC 20515-1316

Senator Sue Rezin
309J Capitol Building
Springfield, IL 62706

Representative David Welter
200-2N Stratton Building
Springfield, IL 62706

Governor, Senators, and Representatives:

The passage of time brings the ability to adjust expectations, recover from the impacts of unforeseen circumstances, and build a coalition to bring additional resources to continue onward despite the setbacks in the path of progress for the Village of Coal City. Over one year's time has passed since Coal City experienced the largest tornado to hit the State of Illinois since Plainfield's Tornado of 1990 and the designated recovery programs of the State and Federal government are unattainable.

In the days following the 6-22 Tornado and many times over the past year, the Village has requested assistance with the $6.3 million burden that shall cost its residents for many years to come. This Village Board of Trustees took its lead from their residents. Each of the insurance agencies were astounded by the resiliency of the Coalers and were surprised to witness each household rebuild again despite having experienced two tornadoes within two years' time. Thus, the Village Board bonded debt in order to receive the crucial funding to cleanup the storm's aftermath and repair the necessities to get Coal City moving forward again.

The Village of Coal City released its *6-22 Tornado Report* summarizing the actions that took place in the tornado's aftermath and for what purposes money had been expended. Its conclusion challenged our elected representatives to find better solutions so future acts of nature would not result in the same challenges that befell this community. Please continue to seek means of assisting Coal City's residents. Seek programmatic assistance for those projects that

remain as priorities for this community as it builds a higher quality of life for its future residents. Although direct relief may not exist, please continue to provide assistance within programs that are useful for this community's future; the debt available to accomplish utility and infrastructure upgrades is no longer available from the Village's residents. We shall continue to look upwards for you to partner with our community as it enters long-term recovery and attempts to make a better community than during its brush with Mother Nature.

Representatives from the Village including our Administrator and professional consulting partners continue to work with your collective staffs to identify these opportunities and means by which the Village can partner with your departments and agencies to rebuild the Village with assistance on projects for which the Village can no longer provide its intended capital investment. Please continue to focus your efforts to assist us with these future, necessary infrastructure investments within our community.

Please feel free to contact me or our Village Administrator Matt Fritz if we can provide any information or be of assistance as each of us try to resolve these issues for our common constituents.

Sincerely,

Terry Halliday, Mayor

Ross Bradley, Trustee

Tim Bradley, Trustee

Dan Greggain, Trustee

Neal Nelson, Trustee

David Togliatti, Trustee

Justin Wren, Trustee

# VILLAGE OF COAL CITY

Terry J. Halliday
*President*

Pamela M. Noffsinger
*Village Clerk*

*Village Trustees*

Ross Bradley
Tim Bradley

David Togliatti
Neal Nelson

Justin Wren
Dan Greggain

November 5, 2015

Mr. David Wortman
Deputy Director of Community Development
IL Department of Commerce & Economic Opportunities
500 East Monroe Street
Springfield, IL 62701

**RE: DCEO FUNDING OPPORTUNITIES FOR COAL CITY**

Dear Mr. Wortman:

In response to your call, I am providing several Village priorities. These priorities include costs for improving the public infrastructure to avoid emergencies residents and businesses experienced from a loss of electrical supply within the entire Village and economic development projects severely delayed due to the fiscal impact of the tornado. This fiscal impact is a result of squeezing another $6.3 million of recovery and remediation costs into the Village's budget due to the EF-3 Tornado of June 22nd. Village costs are increased because the Village did not qualify for State or Federal disaster assistance. After each of the project titles and estimated costs there is a short description of the project. I would like you to review these items and let me know which projects require further details prior to implementing a plan.

Thanks so much for your offer of assistance. On behalf of Mayor Halliday and the Board of Trustees, we look forward to having the State of Illinois participate with us to assist our residents.

Sincerely,

Matthew T. Fritz
Village Administrator

cc: Terry Halliday, Mayor
Trustees, Coal City Village Board
Toi Hutchinson, Senator
Sue Rezin, Senator
John Anthony, Representative
Kate Cloonen, Representative

515 S. Broadway, Coal City, Illinois 60416
Phone: (815) 634-8608 Fax: (815) 634-2487
www.coalcity-il.com

*Economic Development Projects*

The Village of Coal City has suffered through a declining EAV. This decline will be deepened with the total number of properties with homes and structures that will not receive value for the second half of tax year 2015 as well as the first half of tax year 2016. The estimated EAV upon which taxes are to be paid in 2016 is $99,992,111; approximately 17% less than the Village's EAV of $120,949,702 in 2010 prior to the downslide, and $5,485,128 less than the EAV base of 2015. These reductions cripple the Village's ability to participate in the active economic development projects necessary to gain additional EAV and maintain the downtown Core Retail Area as a vital and growing part of the region.

*Rail-fed Industrial Park Improvements* $6,835,000

Prior to the budget impasse of this past summer, DCEO and IDOT had forged agreements with the industrial park developers – ILPCC, LLC and the Village of Coal City. The agreements will enable improvements within this 266-acre industrial park. The public/private partnership project had already received the support of the Village of Coal City, which provided $1.9 million in development bonds to install the lead track into the park. Prior to the end of the last fiscal year, and following up with Governor Rauner's commitment he would do anything he could do for the Village, the Village requested both of the existing agreements to be executed by the respective department secretaries. Executing these agreements would allow the park to move forward and necessary infrastructure to be constructed. The improvements at the park would lead to replacement EAV and generation of new jobs, greatly assisting the community in repayment of its tornado-related debts.

*Core Area Façade Improvement Program* $225,000

The Board of Trustees have assisted three businesses to date with the Village façade improvement program. This program provides zero-interest funding to businesses that desire to borrow money from the Village for a three-five year period. The program has been successful and other businesses are currently interested in the program, but the Village lacks extra funds to put this money to work in its downtown. This façade program was eliminated from the current Village budget. DCEO's provision of the seed money for this revolving loan program will allow other businesses to enter into agreements with the Village and assist in the revitalization of the downtown area. This program has already been adopted by ordinance and utilized by Coal City businesses.

*Public Parking Improvements for the Core Area* $750,000

The Village's Core Area is hampered by parking limitations that reduce traffic to local retail and service businesses. Phase One Engineering of the upcoming Broadway renewal project results in the elimination of a great deal of parking. The loss of parking spaces is generated by federal design requirements. Investment in multiple public parking areas will allow greater customer traffic within the Core Area businesses. The location of one of the public parking projects falls directly within the path of the 6/22 tornado.

## *Infrastructure Improvements*

The Village utilized a "Shock & Awe" campaign to rid the streets of the storm debris in the aftermath of the tornado. Shock and Awe was a combined effort of private contract companies, IPWMAN (Illinois Public Works Mutual Aid Network), and ILEAS (Illinois Law Enforcement Alarm System). The program was a coordinated response to get the affected area safe so Village residents could access their homes quickly and rebuilding could begin. This campaign incorporated over 150 dump trucks and semi-trailers hauling debris across four days' time. The program brought overweight vehicles onto typical neighborhood streets and repeated abuse onto the Village's arterials. In addition to clearing affected areas for public safety, the Village's public works department needed to keep lift stations operating to keep the sanitary collection system from backing up into resident's homes, despite the electrical blackout.

*Broadway Section Replacement* $1,997,525

A portion of the Village's main arterial – Broadway from State Route 113 to North Street, received some of the greatest impact from the Shock & Awe campaign. The debris collection assignment area was located at the Felix Township Garage and the tree grinding operation took place at the Village's Maintenance Garage. Additionally, a vast majority of the waste was hauled to the Grundy County Landfill. All of the trucks utilized North Broadway for these operations. The identified amount would resurface this portion of Broadway and install mandated lighting for final section improvements within this area that includes the Coal City Elementary School. This improvement would complement the ongoing Safe Routes To School Project, currently in design.

*Carbon Hill Road Section Replacement* $2,512,833

This corridor services a majority of the Coal City Unit School District #1 (CCUSD) student population and extracurricular facilities. The corridor was utilized by ComEd's transmission and distribution crews for the replacement of four major distribution high tension towers destroyed within the community. These repairs were a high priority because downed high tension lines across the BNSF's tracks halted rail traffic in the area. The repairs brought a high volume of overweight trucks and recovery crews to the community. This cost would resurface the corridor and install the mandated lighting for this high traffic area of the community.

*Black Diamond Estates Street Improvements* $870,522

This subdivision of 64 homes was directly impacted from the tornado. Its restricted storm drainage led to greater damage as heavy trucks cleared the debris within this limited area. The proposed improvements would install additional drainage beneath the roads (connecting the drainage to the Village's completed $1.2 million improvement) and replace the roads in this area.

*Coaler Lift Station Resiliency Replacement Project* $645,000

The Coaler Lift Station, located at Coaler & Elizabeth, is one of two lift stations that could be eliminated and connected to the Village's gravity flow sanitary waste collection system. This remediation will build greater resiliency of the infrastructure during catastrophic weather conditions. Rather than utilize electricity or a backup generator (which was destroyed during the tornado), the need for the station would be eliminated entirely with the installation of gravity collection lines. This remediation is possible due to the Village's prior $1.25 million investment within the Westside Interceptor Improvement Project of 2013. The improvements would connect to that existing infrastructure.

*Hunters Run Lift Station Resiliency Replacement Project* $445,000

A partner to the Coaler Lift Station, this project would create greater resiliency and bring greater reliability to the sanitary collection of the Village's residents. This project would connect to the Village's previous $1.25 million Westside Interceptor Project.

*Road Maintenance Program Storm Response Replacement* $6,885,185

The full impact of the tornado shall leave the Village with many roads that will not meet their intended lifetime target. This lifespan reduction will result in the Village needing to prioritize limited capital funds into the replacement of the roads prior to their intended replacement. This money would establish a sinking fund that would be availableto repair and replace roads as they degrade over time.

*Sidewalk Restoration and Improvement* $1,060,315

In addition to the road infrastructure, the sidewalks are in need of restoration. Large uprooted trees heaved the sidewalks, debris was hauled across the walks, and vehicles trampled much of the existing walks within Zones 1-10 of the debris collection area. This funding would go into a sinking fund that would replace sidewalks and connect all of the affected area to the remainder of the Village's walks.

# Home Rule Municipalities

There are currently 211 home rule municipalities in Illinois.

Addison
Algonquin
Alsip
Alton
Arlington Heights
Aurora
Bannockburn
Barrington Hills
Bartlett
Bartonville
Batavia
Bedford Park
Belleville
Bellwood
Belvidere
Benton
Berkeley
Berwyn
Bloomingdale
Bloomington
Bolingbrook
Bridgeview
Bryant
Buffalo Grove
Burbank
Burnham
Cahokia
Calumet City
Calumet Park
Carbon Cliff
Carbondale
Carlock
Carol Stream
Carpentersville
Carterville
Champaign
Channahon
Chicago
Chicago Heights
Chicago Ridge
Christopher
Cicero
Collinsville
Country Club Hills
Dolton
Downers Grove
DuQuoin
East Dundee
East Hazel Crest
East St Louis
Edwardsville
Elgin
Elk Grove Village
Elmhurst
Elmwood Park
Elwood
Evanston
Evergreen Park
Fairview Heights
Flora
Forest View
Freeport
Galesburg
Gilman
Glen Ellyn
Glendale Heights
Glenview
Glenwood
Golf
Granite City
Gurnee
Hanover Park
Harvey
Harwood Heights
Hazel Crest
Herrin
Highland Park
Highwood
Hillside
Hodgkins
Hoffman Estates
Homer Glen
Hopkins Park
Inverness
Jacksonville
Johnston City
Joliet
Kankakee
Markham
Mascoutah
Maywood
McCook
McHenry
Melrose Park
Mettawa
Midlothian
Moline
Monee
Monmouth
Morton Grove
Mound City
Mount Prospect
Mount Vernon
Muddy
Mundelein
Murphysboro
Naperville
Naples
Nauvoo
New Lenox
Niles
Normal
Norridge
North Chicago
North Utica
Northbrook
Northfield
Northlake
O'Fallon
Oak Forest
Oak Lawn
Oak Park
Oakbrook Terrace
Old Mill Creek
Onarga
Orland Park
Oswego
Palatine
Park City
Park Forest
Park Ridge
Pekin
Riverdale
Riverwoods
Robbins
Rock Island
Rockdale
Rolling Meadows
Romeoville
Rosemont
Round Lake Beach
Saint Charles
Sauget
Schaumburg
Schiller Park
Sesser
Sherman
Shorewood
Skokie
South Barrington
South Holland
Sparta
Springfield
Standard
Stickney
Stone Park
Streamwood
Sycamore
Thornton
Tilton
Tinley Park
Tuscola
University Park
Urbana
Valmeyer
Vernon Hills
Volo
Warrenville
Washington
Watseka
Waukegan
West Chicago
West City
West Dundee
West Frankfort
Wheaton

Countryside
Crainville
Crystal Lake
Danville
Darien
Decatur
Deerfield
DeKalb
DePue
Des Plaines
Lake Barrington
Lake Bluff
Lake Forest
Lake in the Hills
Lansing
LaSalle
Lincolnshire
Lincolnwood
Manhattan
Marion
Peoria
Peoria Heights
Peru
Phoenix
Plainfield
Posen
Prairie Grove
Quincy
Rantoul
River Grove
Wheeling
Williamsville
Wilmette
Winnetka
Woodridge

MUNICIPAL LEAGUE

Street Address:
Illinois Municipal League
500 East Capitol Avenue
Springfield, IL
62701

Mailing Address:
Illinois Municipal League
P.O. Box 5180
Springfield, IL
62705-5180

Office Hours:
8:30 am - 4:30 pm
Monday - Friday

Contact Us
Phone: (217) 525-1220
Fax: (217) 525-7438
Email: inquiry@iml.org
Staff Login
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# Director's Comments

By Brad Cole, Executive Director

One of the initiatives we undertook this spring as part of the Illinois Municipal League's legislative agenda was to place a referendum question on the November general election ballot regarding the automatic population threshold for attaining Home Rule status. The current population requirement for a community to be automatically granted Home Rule status is above 25,000 population. Any community can also achieve Home Rule status by their own passage of a local referendum on the question; they can similarly rescind or reject the status. There are currently 212 Home Rule communities in Illinois, with the majority having been established by local referendum.

The current population mark was established with the adoption of the 1970 Illinois Constitution, and it has served the state well in allowing for relatively large-sized communities to have additional authority vested in their city council or village board. Unfortunately, the population threshold leaves many communities without the level of flexibility and local authority that is needed more and more in today's governmental climate. The IML proposal this year was to lower the population standard to allow for any community at or above 5,000 in population to be deemed Home Rule. By our calculations, this would have added 172 new communities statewide to the Home Rule ranks. This was – and is, obviously – a big deal for the cities, villages and towns that sit between those two residency levels.

By now you know that our proposal stalled and so we were unsuccessful in our efforts. The hurdle for us rested with the General Assembly, whose support we needed to place the question on the ballot to begin with. Since this would have modified the Illinois Constitution, a much larger undertaking than simply passing a bill into law, we asked the legislature to approve placement of our question on the ballot. And although we had a certain degree of support from many individual legislators, there were also a lot of other competing proposals to amend the constitution and ours didn't make the cut. But we weren't alone: out of the dozens of other proposed amendments, only one (a question regarding the establishment of a "lock box" to protect dedicated transportation funding) was approved for voter consideration. Sometimes this is the case in our democratic system, regardless of how strongly we feel about the value and merits of our issue and often to the benign detriment of our members.

Finally getting to my point, the fact that our Home Rule proposal was not approved by the General Assembly this year does not deter us. Quite the opposite, it gives us a better understanding of the obstacles we will face when we raise the issue again – which we will do – and it gives us additional time to map our strategy toward success next time. Our soonest opportunity to have the question considered again won't be until the next statewide general election, which will be in November 2018. Because the question involves amending our state government's underlying framework, changes to the constitution should not be taken lightly. We are committed to educating both legislators and local elected officials, as well as the individuals and groups who have historically opposed Home Rule eligibility expansion, over the next two years and for as long as it may take until we can open this opportunity for more of Illinois' communities.

The IML Board of Directors and staff join in thanking each of you who supported this effort over the past several months, and we now begin to look forward to aggressively pursuing the issue again next time. To borrow a phrase from some of our state's most loyal and dedicated baseball fans: there's always next year!

# Advocacy Update: IML Unveils "Moving Cities Forward" Agenda

By Joe McCoy, Legislative Director

The Illinois Municipal League announced a series of legislative initiatives intended to bolster the ability of local governments to provide critical services to Illinois taxpayers. The policy prescriptions, unveiled during a February 23 press conference, are forward-thinking solutions to long-standing challenges confronting Illinois' cities, villages and towns.

IML President Tom Gray (Chatham), First Vice President Karen Darch (Barrington) and Sergeant at Arms Eugene Williams (Lynwood) joined Executive Director Brad Cole in announcing the nine initiatives that constitute the "Moving Cities Forward" agenda.

The "Moving Cities Forward" agenda is intended to strengthen municipal government during a time of considerable uncertainty created by the state's problematic budget and financial outlook. More than ever, local governments must be positioned to effectively carry out their core mission of providing essential services that protect the health, safety and welfare of millions of Illinoisans every single day.

The nine initiatives comprising the "Moving Cities Forward" agenda include several significant proposals prioritized by cities, villages and towns throughout Illinois. Several of these initiatives have been sought by municipal leaders for many years. The initiatives are as follows:

- Automatic Appropriation Authority for Local Funds
- Expansion of Home Rule Eligibility
- Constitutional Amendment to Limit Future State Mandates
- Public Safety Arbitration Reform
- Pension Relief and Structural Reform
- Optional Unfunded Mandates for Communities with Fewer Financial Resources
- Local Control Over Prevailing Wage Decisions
- Workers' Compensation Reforms
- Annual State Review of Mandates

A more complete explanation of these initiatives can be found on the IML website (iml.org).

Taken together, these initiatives will provide municipal governments with the financial and operational flexibility to solve problems and deliver critical public services to Illinoisans within the communities where they live, work and play.

"Mayors and local leaders face challenges very similar to those of our state government, and we want the ability to address these issues in a way that empowers local government," said Tom Gray, village president of Chatham and IML board president. "Moving Cities Forward contains immediate reforms that will permit local governments to creatively solve issues and govern with a community's unique interests in mind."

### Street Address:

Illinois Municipal League
500 East Capitol Avenue
Springfield, IL
62701

### Mailing Address:

Illinois Municipal League
P.O. Box 5180
Springfield, IL
62705-5180

### Office Hours:

8:30 am - 4:30 pm
Monday - Friday

### Contact Us

Phone: (217) 525-1220
Fax: (217) 525-7438
Email: inquiry@iml.org
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# Home Rule By Referendum In Nine Illinois Municipalities

By KURT P. FROEHLICH, Research Associate
Institute of Government and Public Affairs
University of Illinois

In Illinois any municipality — city, village, or incorporated town — may become a home rule unit with the corresponding constitutional right to exercise any power and perform any function pertaining to its government and affairs. Municipalities with populations greater than 25,000 automatically become home rule units. Other municipalities may elect by referendum to become home rule units.

The Illinois General Assembly has acted to provide procedures through which a municipality under 25,000 population may, by resolution of its governing body or by petition of the voters, conduct a referendum to become a home rule unit. (**Ill. Rev. Stats.**, 1973, ch. 46, secs. 28-4 and 28-5).

Since the 1970 Illinois Constitution went into effect on July 1, 1971, there have been 16 municipal home rule referenda. Of these, 9 have been successful:*

| Municipality | (County) | 1970 Population | Vote | Date |
|---|---|---|---|---|
| McCook | (Cook) | 366 | 165-17 | Nov. 1971 |
| Bedford Park | (Cook) | 583 | 254-36 | Dec. 1971 |
| Rosemont | (Cook) | 4,825 | 229-72 | Jan. 1972 |
| Countryside | (Cook) | 2,888 | 598-317 | Nov. 1972 |
| Stone Park | (Cook) | 4,451 | 206-18 | Dec. 1972 |
| Mound City | (Pulaski) | 1,177 | 130-56 | April 1973 |
| Norridge | (Cook) | 18,043 | 2,387-710 | April 1973 |
| Park City | (Lake) | 2,906 | 243-33 | Sept. 1973 |
| Bryant | (Fulton) | 346 | 41-1 | Jan. 1974 |

Mayors, village presidents, attorneys, clerks, and in several instances members of the governing boards of these nine referendum units recently discussed their experiences with home rule. They answered or suggested answers to several questions about home rule in their communities. How does home rule use in these cities and villages compare with its use as envisioned by the delegates to the Sixth Illinois Constitutional Convention? Why did these nine small municipalities choose home rule status? How did municipal officials approach the voters about increased powers to tax and to incur debt under home rule? What are the plans for home rule use in these communities? What actions involving home rule have they taken?

**Con-Con: Operational Home Rule.** That home rule powers should be available by some means to all Illinois municipalities was never a serious issue at the constitutional convention. However, the majority of the Local Government Committee believed that home rule was best suited to large municipalities. The majority also believed that in smaller communities the expense and difficulty of a referendum should be placed on local officials who desire the additional powers and responsibilities of home rule. A major problem confronting convention delegates was in deciding upon whom extra burdens would be placed in acquiring home rule.

A compromise worked out by the delegates turned on two key issues: the size of the municipalities receiving automatic home rule and the vote necessary for preemption of home rule powers by the General Assembly. A population of 25,000 for automatic home rule and a referendum procedure for other municipalities was linked to the provisions in sections 6(g) and (h) of article VII, which state that the General Assembly may deny or limit home rule powers by a three-fifths vote and may declare state exclusivity by a majority vote. Had there been no compromise, had all communities been given home rule status automatically, it was thought that the preemption provisions might be amended so that all home rule powers would have been subject only to a simple majority vote of the General Assembly.

An analysis of home rule in the nine referendum home rule units shows that those municipalities are, for the most part, very much like the larger municipalities for which home rule was automatic. They have problems similar to those of larger municipalities. They responded to these problems by assuming the difficulties and expense of a referendum for home rule.

**Adoption of Home Rule.** The constitution and the Election Code provide that a home rule referendum may be initiated by resolution of the governing board or by petition of the voters. Five of the nine successful home rule referenda were initiated by resolution and

*Data on the seven unsuccessful referenda are as follows:

| Municipality | (County) | 1970 Population | Vote | Date |
|---|---|---|---|---|
| Arthur | (Douglas-Moultrie) | 2,214 | 161-219 | Mar. 1972 |
| Worth | (Cook) | 11,999 | 494-557 | April 1972 |
| Lincolnshire | (Lake) | 2,531 | 255-381 | Aug. 1972 |
| Forest View | (Cook) | 927 | 181-361 | Nov. 1972 |
| Stickney | (Cook) | 6,601 | 375-904 | Dec. 1972 |
| Long Grove | (Lake) | 1,196 | 204-208 | April 1973 |
| Bloomingdale | (DuPage) | 4,434 | 311-418 | April 1974 |

four by petition of the voters. In the referenda initiated by petition, as well as in those initiated by resolution, municipal officials — rather than the voters — generated the idea that home rule could help their community. In none of the referendum units was any organized opposition to home rule noted.

**Why Home Rule?** So far the adoption of home rule by municipalities with populations under 25,000 has been a response to special local problems. Some patterns can be discerned in the types of initial problems faced by these units.

The 1971 referenda, in McCook and Bedford Park, concerned industrial environmental problems. The 1972 referenda, in Rosemont, Countryside and Stone Park, were in response to possible advantages in taxing and regulating local commercial interests. The 1973 referenda, in Norridge, Mound City, and Park City, were substantially influenced by the "home rule amendment," often added to bills in the General Assembly to clarify that they do not apply to or are not limits upon home rule units. The 1974 referendum in Bryant concerned use of the Industrial Project Revenue Bond Act for pollution control facilities in a local factory.

The first five referenda, all in Cook County, were initiated in the belief that home rule would insulate municipalities from the county's power to tax. Those five referenda preceded the denial for rehearing in **City of Evanston v. County of Cook** (53 Ill. 2d 312 [1972]), which held that the county and home rule municipalities may simultaneously impose identical privilege taxes.

In some cases the initial reasons for adopting home rule are gone. The potential to use home rule in other ways remains. Other actions and plans, as well as some already noted, will be considered in the areas of taxation, licensing and regulation, debt and local improvements, and officers and employees.

**Taxation.** The constitution grants home rule units a broad power to tax. Although voters in the nine referendum communities were aware of this power, they nevertheless adopted home rule.

Bedford Park President Ernest Martin and Attorney Don Moore reacted in an identical way to the relationship of taxation under home rule to their referendum: "Everyone knows everyone — that instills responsibility." Mr. Moore noted that there was a general fear of greater local taxing power, but that the trustees' personal contact with voters during the petitioning and referendum process may have accounted for the overwhelming approval of home rule.

Officials in McCook, Mound City, Norridge, Park City, Rosemont, and Stone Park told their voters that they were not yet using all of the taxing authority already available to them under the statutes. Home rule proponents in McCook claimed, according to Village Attorney Louis Cainkar, that the village has one of the lowest tax rates in Cook County.

Rosemont and Mound City were able to go from a defensive to an offensive position on home rule taxing power. At the time of the referendum, Rosemont was proposing a hotel-motel privilege tax on the consumer's rental of a room (Rosemont ord. nos. 72-2-16B (25 cents), 72-4-19 (50 cents), and 74-1-16B ($1.00)). Fifty cents of the current one dollar tax rate is earmarked to offset initial planning expenses for a convention center. Since this tax would be paid mainly by those who would fly into O'Hare Field, use the village's facilities, and then leave, proponents of home rule in Rosemont were able to take advantage of a recognized tax maxim, "The only fair tax is the one the other fellow pays." Because there is no large shopping complex in Rosemont to generate sales tax revenues from visitors, the hotel-motel tax is the only way, stated Village President Donald Stephens, "to make those who use our fire and police services help to pay the costs." Stone Park has also adopted a hotel-motel privilege tax (ord. no. 73-8 (50 cents)).

Except for Rosemont and Stone Park, the power to tax in ways other than provided by statute has not been exercised in the communities which have voted for home rule. Under consideration in Stone Park is a mobile home privilege tax, but the tax has village officials in a quandry: mobile homes place a great burden on municipal facilities yet, because Cook County also taxes mobile homes, the proposed tax may be an unfair double tax. The village is also considering a one cent per gallon gasoline tax.

In March 1973, just before the April referenda in Mound City and Norridge, the General Assembly was considering House Bill 525, later tabled. H.B. 525 would have required two policemen in each patrol car at night. Mound City and Norridge officials learned that the bill might be amended so as not to apply to home rule units. Both Mound City Mayor Frederic Winkler and Norridge Village President Joseph Sieb acknowledge the important role this played in the adoption of home rule in their communities. Mayor Winkler observed, "If we had not adopted home rule, we might have had to choose between a large tax increase and no night police. . . . H.B. 525 sold home rule for us." Norridge is in Cook County and apparently would not have been affected by H.B. 525 as amended. Home rule, however, may give the village an opportunity to accept or reject, on its own, the yet unknown effects of that or similar proposed legislation.

The effect of the amendment exempting home rule units was also considered by Park City. The Mobile Home Park Act contains the provision that it does not apply within the jurisdiction of home rule units. Park City is in a non-home rule county, Lake County. According to City Attorney Eugene Snarski, the city adopted home rule primarily to take advantage of the exemption, and thus gain control over mobile homes and mobile home parks within municipal boundaries.

**Licensing and Regulation.** None of the nine referendum units have instituted any licensing provisions clearly based upon home rule powers, but there has been use of home rule powers in the area of regulation.

Attorneys Moore of Bedford Park and Patrick Lucansky of Countryside believe that home rule is still a benefit to licensing in their communities despite the absence of any new ordinances. Both attorneys believe that some of their municipalities' licensing provisions, enacted prior to home rule, may have exceeded statutory authorization. Home rule, they agree, has clarified the status of some licensing provisions in favor of the municipalities.

Bedford Park imposes a one dollar license fee as part of a program to assure that zoning is properly observed by industry. Industries must report their use of property, and that use is subject to the annual license (ord. no. 159). Attorney Moore believes that home rule is a firmer basis for this licensing and reporting device.

The highly industrialized villages of Bedford Park and McCook are very concerned about environmental protection. In both communities, home rule was proposed in order to gain greater local control over environmental matters. Bedford Park has not exercised any home rule authority over environmental matters. According to Attorney Moore, all of the village's environmental ordinances are in accord with state laws. Mr. Moore believes that the potential in home rule for Bedford Park lies in the resolution of possible intergovernmental conflict.

For industry to operate in Bedford Park, permits are required from the state, Cook County, and the village. So far, all three governments have been able to agree. The time may come, however, when a village permit or denial of a permit conflicts with a state or county ruling. Attorney Moore believes that section 6(c) of article VII of the constitution would seemingly resolve a village-county conflict in favor of the village and that home rule would result in a village-state conflict being similarly resolved. Concerning a possible village-state conflict, Mr. Moore noted with optimism the recent appellate decision in favor of a home rule unit in **City of Des Plaines v. Metropolitan Sanitary District of Greater Chicago** (16 Ill. App. 3d 23 [1974]).

McCook officials are also concerned about environmental protection. Although McCook's Environmental Control Ordinance (ord. no. 72-6) prescribes standards much like the state statutes and regulations, there are several points which may be exercises of home rule powers.

The Environmental Control Act limits the money remedy for each continuing environmental offense to $1,000 per day (**Ill. Rev. Stats.**, 1973, ch. 111½, sec. 1042), while McCook's ordinance allows the village to fine violators as much as $5,000 per day. The ordinance also establishes a local Environmental Board to enforce the ordinance. Consistent with section 6(e)(1) of article VII of the constitution, the ordinance provides that responsible corporate officers may be imprisoned up to six months for violations. Citing home rule authority expressly, the ordinance allows the village to acquire structures and property used in violation of the environmental standards. Some of the emission standards and compliance periods required by the ordinance are more stringent than provisions of the Environmental Control Act.

Village officials in Bedford Park and McCook stated that industry would rather work within local than state environmental regulations, even though the local regulations may impose more severe regulations and remedies. According to Bedford Park President Martin, industries "would rather deal with us because we can better understand the problems." McCook's Attorney Cainkar echoed this, and noted that cooperation with local environmental enforcement is more likely where corporations deal with people they regularly confront.

Apparently the small populations of Bedford Park and McCook do not adversely affect their ability to administer environmental control programs. Many retired environmental experts and engineers live in both communities. Officials of both villages indicate that their programs are so well respected that local approval of an operation results in automatic state and county approval.

In another aspect of regulation, the minimum drinking age, Rosemont and Norridge have enacted ordinances prohibiting 19- and 20-year-olds from drinking beer and wine (Rosemont ord. no. 73-11-21D and Norridge ord. no. 603). Rosemont Village President Donald Stephens stated, "Sure, we lose some business because of this, but it is preferable to the problems our bartenders would have."

Discussed above was Park City's adoption of home rule so that it would not be governed by provisions in the Mobile Home Park Act. Park City is one of the newest referendum home rule units and, with the recent election of a new mayor, the community has not yet done anything with its home rule powers. Therefore, at this time there are no regulations on mobile homes in Park City. City Attorney Snarski commented: "The city is not trying to get away with anything. . . . A uniform state law does not really work very well in Park City where 70 percent to 80 percent of the residents live in mobile homes."

**Debt and Local Improvements.** The 1970 constitution expanded the ways in which local governments may incur debt and proceed with local improvements. Several of the referendum home rule units have used, or plan to use, nonreferendum debt, special service areas, the Industrial Project Revenue Bond Act, and their broader general powers for local improvement.

Although Norridge Village President Sieb promised voters in the home rule election that nonreferendum debt would not be used, home rule may have added a $2 million flood control bond issue. Village Attorney Peter Schultz believes that home rule clarifies Norridge's authority to proceed with the project. Of even more importance, said Mr. Schultz, is recognition by Chapman and Cutler, the bond counsel, of the additional power which home rule gives the village in the flood control matter.

Rosemont currently plans a $3.9 million nonreferendum bond issue to construct a stadium-sports com-

plex (ord. no. 74-1-16A). Already issued are $150,000 in nonreferendum bonds for waterway improvements (ord. no. 73-7-9A). Another Rosemont plan involves the construction of a convention center. Noted already is the earmarking of hotel-motel tax proceeds for initial expenses in the development of the plan. Ordinance number 74-3-30A defines the village's authority to license use of the proposed convention center and the stadium-sports complex. A license has been granted to the Cougars for hockey games in the stadium.

A further aid to Rosemont's financial capability is a home rule ordinance which allows borrowing from banks and savings and loans institutions up to five years (ord. no. 73-1-17A). A similar ordinance is being considered in Mound City. By the authority of only a local resolution in March 1974 the city negotiated a $15,000 bank loan. Stone Park is currently working with a bank to borrow $30,000 for a small computer and an aerial truck.

Mayor Winkler of Mound City stated that his community would incur substantial amounts of debt only with referendum approval. He thought that voters would be justifiably suspicious if there were no referendum on debt. To avoid some of the inflexibilities of the statutory referendum procedure, however, Mayor Winkler indicated that Mound City may incur debt with an advisory referendum.

**People ex rel. City of Salem v. McMackin** (53 Ill. 2d 347 [1972]) clarified the use of the Industrial Project Revenue Bond Act by home rule units. The Illinois Supreme Court decided that, in spite of the home rule amendment, home rule cities and villages may adopt the provisions of the act. Of the referendum units, Bedford Park and Bryant have used the act (Bedford Park ord. no. 610, $2.5 million for pollution control equipment, and ord. no. 612, $3 million for new plan construction and equipment; Bryant, $25 million for pollution control facilities).

Mound City Mayor Winkler is giving some thought to using the Industrial Project Revenue Bond Act in conjunction with the city's plan to develop a tourist trade around Civil War sites in the area. Mayor Winkler would like to make the old shipyards and dry dock functional. There would then be an improved local industry in barge repair. Such an industry would be similar to the shipbuilding and repair of the 1860s, and might be an additional attraction for tourists.

The 1970 constitution defines a new concept in local financing for both home rule and non-home rule units — special service areas and differential taxation (art. VII, sec. 6(1)). In response to **Oak Park Federal Savings and Loan Association v. Village of Oak Park** (54 Ill. 2d 200 [1973]) the General Assembly passed enabling legislation for special service areas (**Ill. Rev. Stats.**, 1973, ch. 120, sec. 1301 et seq.). To date no referendum home rule municipality has used the special service area legislation, although Bedford Park has plans for special service areas in its industrial area.

Because of the potential for numbers of industrial accidents, the village needs better ambulance service. Industry, the major user of this service, must bear the major part of the financial burden. Village Attorney Moore believes that this may be possible by creating a special service area and using the intergovernmental cooperation section of the construction (art. VII, sec. 10). In May 1974 the village will begin operating under a contract for a general ambulance service.

Another proposed special service area in Bedford Park would renovate a water loop system for fire protection. Because the property involved is privately owned, intergovernmental cooperation may also be involved in this project.

Mr. Moore believes that a special service area, rather than special assessment procedures, would work satisfactorily on the water loop. A special service area may be more flexible, particularly when the proposed improvement is privately owned. Corporate finance also favors a special service area over special assessments. Special assessments by installments are for 10 years in some cases and for 20 years in others. Mr. Moore believes that the special service area procedures will guarantee almost any amortizable period for the water loop improvement.

Concerning local property construction and repair, Mound City has several problems. There is no money available for loans to repair or remodel private homes, no local banking facility, and no insurance on 50 percent of the city's homes because of their low value. To help solve these problems and to aid in the development of a tourist trade, Mayor Winkler proposes a Mound City Development Corporation. The development corporation would insure local property; insurance premiums would provide enough money for home repair loans. Mr. Winkler indicated that he would prefer private sponsorship for lending and insuring in Mound City. He hopes that the city's actions in this area will attract outside money: "You have to show that the city cares and can act before individuals will care and act. With home rule we can do anything to develop."

Another problem in Mound City is drainage, linked to the need to separate water and sewage. The drainage problem, according to Mayor Winkler, is linked to federal policies related to insuring home construction loans and granting money for the sewage system. The mayor hopes that home rule will allow the city to work freely with governmental agencies of all kinds on drainage, sewage, and related problems.

Countryside passed an ordinance adopting the Municipal Code's provisions for local improvements (**Ill. Rev. Stats.**, 1973, ch. 24, sec. 9-1-1 et seq.). Section 6(1) of article VII of the constitution provides that the General Assembly may not deny a home rule unit's power to levy special assessments. There is no corresponding provision stating that the General Assembly may not deny a non-home rule unit's special assessment powers in section 7(1), dealing with non-home rule units. Countryside City Attorney Arthur Thorpe feels that Section 9 of the constitution's Transition Schedule would not carry forward any home rule power to levy special assessments. Mr. Thorpe be-

lieves that the existing statutory special assessment procedures could be interpreted as denials or limitations, and therefore may not apply to home rule units. Although this point is arguable, Mr. Thorpe believes that an adoption of special assessment provisions by the local unit insures against a challenge of home rule authority in local improvements.

Through the home rule amendment the General Assembly is affecting Norridge's home rule actions. The village recently passed an ordinance (ord. no. 608) providing local authority for demolition or acquisition of dangerous and unsafe buildings in Norridge. The ordinance was necessary because the state's law on the subject "does not apply within the jurisdiction of any home rule unit" (**Ill. Rev. Stats.**, 1973, ch. 34, sec. 429.8). Since Norridge is in Cook County, a home rule unit, the county may not act within the village. Attorney Schultz views the planned demolition ordinance as another example of how the village can "get a choice — to take advantage of the home rule amendment." There is also concern in Mound City over the demolition or repair of dangerous and unsafe buildings because Pulaski County cannot statutorily act within the city.

**Officers and Employees.** Specifically referring to its home rule authority "to exercise any power and perform any function pertaining to its government and affairs," Rosemont passed an ordinance (no. 73-12-19A), without a referendum, adopting the firemen and policemen pension fund provisions of the statutes (**Ill. Rev. Stats.**, 1973, ch. 108½, arts. 3 and 4). The statutes require a referendum for adoption of the pension fund provisions by a municipality under 5,000 population. (Rosemont's population is 4,825.)

Another Rosemont ordinance concerns the disciplinary remedies available to the Board of Fire and Police Commissioners. The Municipal Code (**Ill. Rev. Stats.**, 1973, ch. 24, sec. 10-2.1-17) allows the board only two disciplinary measures: to suspend firemen and policemen for 30 days or to discharge them. Rosemont has the highest crime rate in the state and has a high potential for fire in its many hotels and motels. Officials felt that the board should be allowed to impose some disciplinary measure between suspension and discharge. Rosemont ordinance number 72-5-17 allows the board to demote firemen and policemen one rank or grade.

Rosemont ordinance number 74-3-9 provides that 20-year-olds may take the fire and police board examinations, but only applicants over age 21 may be sworn into service. Non-residents may take the examinations, but they must be residents when sworn in. The statutes provide varying age qualifications for policemen and firemen and are unclear about residency while in municipal service (**Ill. Rev. Stats.**, 1973, ch. 24, sec. 10-2.1-6).

All Rosemont municipal employees participate in a village funded program which provides payment for medical prescriptions and prescription eyeglasses (resolution no. R74-4-17). This program is considered as additional compensation.

Stone Park currently has no pension program for its firemen and policemen. Village President Francione believes that a less expensive program than that required by statute (**Ill. Rev. Stats.**, 1973, ch. 108½) may be privately contracted as an exercise of home rule power. According to Mr. Francione, "The firemen and policemen have nothing now. Any low cost program we can find would be welcome." Village officials view such a program as necessary to keep good personnel.

Mr. Francione is Stone Park's first full-time village president. By ordinance no. 72-9, passed before his taking office but effective during his term of office, Mr. Francione's salary was increased to reflect the change in the village president's office from part-time to full-time. State law (**Ill. Rev. Stats.**, 1973, ch. 24, sec. 3-13-6) and the constitution (art. VII, sec. 9) provide that no change in a village president's salary may take effect during his term of office. Section 3-13-6, however, "does not apply to any municipality which is a home rule unit." Mr. Francione believes that the change in salary is permissible as an exercise of home rule power.

**Conclusion.** The constitutional convention delegates conceived of home rule adoption by smaller communities as a response to special local problems. Six of the nine referendum home rule units are located in Cook County. The first five successful referenda were in Cook County. Apparently the problems of an urban setting — traffic, fire and police protection, economic development, and severe environmental concerns — were the original stimuli for home rule adoption by referendum. The report of the convention's Local Government Committee indicated that special problems in an urban setting were the major focus for home rule by referendum. At least six of the referendum units seem to meet the committee's and the convention's expectations. In addition, several of the referendum communities have nonresident daily populations exceeding 25,000, when commercial traffic and work forces are included (Rosemont, Bedford Park, and McCook).

In addition to the six referendum units in Cook County, Park City may in fairness be added as exemplifying home rule adoption as a response to special problems in an urban setting. Although it is in Lake County, a non-home rule county, Park City is part of the Chicago metropolitan area. With 70 to 80 percent of its residents living in mobile homes, the community has the crowded living conditions associated with an urban setting.

The apparent anomalies are Mound City and Bryant. They are not in urban areas, and their economic resources are few. However, they do have special problems. Bryant Village Attorney Oral Kost believes that home rule may make Bryant's industrial revenue bonds more marketable. Mound City's many economic problems were presented above.

Another anomalous feature concerns intergovernmental relations. The seven Chicago-area communities

see home rule as a way to resolve intergovernmental conflicts more favorably to themselves. Mound City, however, sees home rule as a way to work with other governmental entities to resolve severe economic problems.

Perhaps intergovernmental cooperation places home rule in a proper perspective in Mound City. Without financial resources and without an influence over a greater area, the city cannot grow as Mayor Winkler pictures it. Intergovernmental cooperation, together with the power to work with any governmental entity or person in any way, is how Mr. Winkler would prefer to attack Mound City's drainage and economic problems. As he noted, however, "We are getting little cooperation — that is why we need home rule to help ourselves."

Nine Illinois municipalities have acquired home rule by assuming the difficulties and expense of a referendum. They now have additional powers — and additional responsibilities. They have adopted many ordinances and have plans for even more actions. Perhaps the ultimate test of the success of home rule in these nine communities would be the success or failure of a referendum to undo what the voters have done in the last few years to acquire home rule status.

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# Home Rule

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## TEN MORE HOME RULE MUNICIPALITIES

As the result of a special census and nine successful referenda, there are now 87 home rule units in Illinois — 86 municipalities and Cook County. In the village of Long Grove a referendum on home rule failed for the second time. In Stickney and Lincolnshire, however, home rule was adopted by the voters despite unsuccessful referenda two years ago. The results of an October 1974 census in Elk Grove Village (Cook County) showed a population of 25,303 for the village. (A population of 25,000 qualifies a municipality for automatic home rule status.)

Until the successful referenda in Standard and Watseka, Mound City was the only downstate municipality to vote affirmatively on the home rule question. The concept of home rule is apparently becoming acceptable to voters outside the six-county Chicago metropolitan area.

The results of the 10 municipal home rule referenda are summarized below.

| *Municipality (County)* | *1970 Population* | *Vote (Yes-No)** | *Date* |
|---|---|---|---|
| Deerfield (Cook-Lake) | 18,876 | 1,056-872 | April 1975 |
| Lincolnshire (Lake) | 2,531 | 871-229 | April 1975 |
| Lisle (DuPage) | 6,921 | 305-133 | April 1975 |
| Long Grove (Lake) | 1,196 | 192-265 | April 1975 |
| Park Forest South (Cook-Will) | 3,232 | 674-434 | April 1975 |
| South Barrington (Cook) | 348 | 101-63 | April 1975 |
| Standard (Putnam) | 290 | 97-4 | April 1975 |
| Stickney (Cook) | 6,601 | 1,432-641 | Nov. 1974 |
| Watseka (Iroquois) | 5,294 | 511-412 | April 1975 |
| Woodridge (DuPage) | 15,316 | 943-317 | April 1975 |

* Figures received from municipal clerks.

Telephone conversations with municipal officials and material from other sources indicated some of the reasons for holding the home rule referenda and some of the characteristics of the elections.

*Referenda Campaigns.* A home rule referendum may be initiated either by petition of the voters or by resolution of the governing body (*Ill. Rev. Stats.*, 1973, ch. 46, secs. 28-4 and 28-5). All 10 of the referenda under discussion were initiated by the governing bodies.

Local officials in all 10 communities noted that their citizens were especially concerned over home rule taxing and debt powers, fearing that home rule would result in higher taxes. In most cases local officials were careful to point out to voters that present taxation and debt levels are below those possible under existing state laws. In Stickney, however, a primary reason for becoming a home rule unit was to allow the village to impose a tax on attendance at Hawthorne Race Course. Such a tax would be paid in large measure by nonresidents. Within two weeks of its home rule

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referendum Stickney did impose a race track admission tax at the rate of 10 cents per admission (ord. no. 74-12). Lincolnshire Village Attorney Terrence Barnicle indicated that the village plans a hotel-motel tax and an entertainment tax. Lisle Trustee Henry Wagner also noted the potential for an entertainment tax — a tax paid mostly by nonresidents.

Individual voters expressed concern about various aspects of home rule powers, but officials noted little, if any, organized opposition in any of the 10 municipalities. In Park Forest South a member of the organization Save Our Suburbs and an editor wrote newspaper articles opposing the home rule referendum. Letters to the editor in the local newspapers of most of the units expressed a variety of viewpoints. In most of the communities at least one of the following techniques served to generate support: newspaper articles by local officials, municipal newsletters, favorable local press coverage, and local home rule seminars. The Deerfield League of Women Voters circulated a question-and-answer brochure on home rule which concluded with the league's support, and the five-member Deerfield Home Rule Study Commission circulated a brochure supporting the measure, "Home Rule . . . What, Why and How."

*Plans for Local Implementation.* A theme running through almost all local officials' comments on home rule was the increased flexibility now available to their governments. Some officials mentioned the possibility under home rule of accepting or rejecting in accordance with local conditions many state laws — particularly laws which might require unnecessary local expenditures. In addition to these somewhat general reactions, and the recognition of home rule taxing potential already noted, several communities had rather specific short-term plans for using home rule. Those plans had to do with business, economic, and community development and with licensing and regulation.

*Housing and Community Development.* The smallest home rule unit in the state, Standard, overwhelmingly adopted home rule powers in order to more effectively implement a housing assistance program under the U.S. Housing and Community Development Act of 1974. The village would like to use funds available under the act to repair its water supply system and to improve housing for the elderly.

Although the federal program will fund implementation of any qualifying local community development plan, Illinois law does not seem to provide counties and municipalities with comprehensive powers in this area. Village Attorney John Grivetti does not believe that the *Illinois Revised Statutes* provide comprehensive community development authority, particularly if a municipality is too small to have a housing authority: "A community our size cannot have a housing authority and, therefore, very likely cannot operate a comprehensive program consistent with the federal act. Home rule, however, would seem to allow us a great deal of freedom to act in this area."

Mr. Grivetti recognized that state law allows municipalities to demolish or repair dangerous and unsafe buildings and to impose a lien on the property for costs (*Ill. Rev. Stats.*, 1973, ch. 24, sec. 11-31-1). He noted, however, that there is, at most, weakly implied statutory authority to repair at municipal cost buildings that are not so blighted that they are not "dangerous or unsafe." He added that there is probably no statutory authority to focus such a program on the elderly as a class.

South Barrington saw a relationship between home rule and its need for a sanitary landfill. Under home rule there are a number of financing alternatives available for such a project.

Trustee Vernon Young of Park Forest South believes that home rule gives the village authority to demolish two specific buildings in the community. He feels that without home rule the village would have to petition the state for that authority.

*Business and Economic Development.* In Woodridge the major argument for home rule was that it would help the community to attract light industry. The village's newsletter, *The Mayor's Bulletin*, in an issue distributed just before the referendum, argued that light industry would broaden Woodridge's tax base and would reduce property taxes:

> Hospitals, shopping centers, and recreational developments are all locating in Home Rule communities around us but none come into Woodridge because we cannot offer the same advantages that a Home Rule unit can. . . . The need for Home Rule powers is now, while we can still develop business and light industry in Woodridge, not years from now when available land may no longer be available.

Woodridge officials also see home rule as a way of allowing the local country club to serve liquor without also serving food. This, they believe, would increase profitability of their country club. (Current Illinois law restricts the sale of liquor in country clubs to areas where food is also served.)

Park Forest South's village manager, Charles Notarus, stated that home rule will allow the village to attract a shopping center with industrial revenue bonds. The Industrial Project Revenue Bond Act is usually employed to build industrial and manufacturing plants, and use of the act for more commercial development would seem to require home rule authority. However, the courts have not approved expressly such expanded uses of the act.

In Lisle, home rule was presented as a way to challenge the zoning authority of DuPage County outside village limits. Village Trustee Wagner fears potentially harmful industrial development just outside the corporate boundaries.

*Licensing and Regulation.* A particular concern noted by Watseka City Attorney Milo Fleming is local control over itinerant solicitors. According to Mr. Fleming,

## Of Special Interest


Industrial Revenue Bonds

Home Rule Profile: Cook County

Home Rule Project Publications

each year numerous itinerant solicitors descend unexpectedly upon Watseka. The local householder discovers that he or she has been taken. What is needed is protection for the local citizen before the solicitor reaches him, such as a licensing and bonding ordinance for the solicitor, the use of a green river ordinance, or both. Green river ordinances prevent unrequested or uninvited sales attempts at residences. With home rule, both ordinances would be available.

*Conclusion.* Although novel home rule ordinances are still being developed, home rule itself is no longer new and unknown. Recently nine of 10 municipalities held successful referenda on the home rule question. In two of three municipalities where home rule had been rejected previously, the measure was approved this time. Formerly Mound City was the only downstate municipality to adopt home rule by referendum, but the plans of Watseka and Standard show that home rule may have a role in other small downstate communities.

KURT P. FROEHLICH

### INDUSTRIAL REVENUE BONDS

The Industrial Project Revenue Bond Act (*Ill. Rev. Stats.*, 1973, ch. 24, sec. 11-74-1 *et seq.*) defines procedures which Illinois municipalities may use to encourage industrial development. By its terms the act "does not apply to any municipality which is a home rule unit." In *People* ex rel. *City of Salem* v. *McMackin* (53 Ill. 2d 347 [1972]) the Illinois Supreme Court stated that, although the act "applies only to non–home rule municipalities, we do not believe that its language necessarily means that such a vehicle for economic development is unavailable to home rule municipalities."

Since the *McMackin* decision, more than 10 home rule municipalities have used industrial revenue bond procedures. Variations of the Industrial Project Revenue Bond Act undertaken by these municipalities include omitting the statutory 7 percent interest rate limit on bonds and expanding the definition of the type of project which may be financed using the revenue bonds. Under the act a permissible project generally means an industrial or manufacturing plant. Although it may be possible to construct pollution control facilities using Industrial Project Revenue Bond Act procedures for financing, at least eight municipalities have enacted ordinances to specifically include a pollution control facility. In addition, six of these eight municipalities (Addison, Alton, Danville, Decatur, Granite City, and Joliet) allow "any economic development project" that "will create or retain employment opportunities in [or near] the municipality." Alton and Rockford have adapted the act's procedures for hospital revenue bonds. It should be noted, however, that use of revenue bond procedures for developments such as shopping centers has not yet been approved expressly by the supreme court. Bond counsel may require judicial approval of the use of industrial revenue bond procedures for purposes other than those in the act. There may be a question as to whether uses of the act's procedures for other than industrial purposes meet the Illinois Constitution's requirement that public funds be expended for public purposes.

The figure below is based on data obtained from the Illinois Department of Business and Economic Development. It summarizes home rule municipalities' industrial revenue bond issues which exceed the statutory 7 percent interest rate limit.

| *Municipality* | *Amount (millions)* | *Interest Rate* | *Date* | *Type of Use* |
|---|---|---|---|---|
| Addison | $ .25 | 7½ | Oct. 1974 | industrial |
| Alton | 4 | n.a. | July 1974 | hospital |
| Joliet | 15 | 7⅝ | Oct. 1974 | pollution |
| Joliet | 2.165 | 7⅝ | Oct. 1974 | pollution |
| Kankakee | 1.5 | 8¾ | Dec. 1974 | industrial |
| Rockford | 1.5 | 7½ | June 1974 | industrial |
| Rosemont | 4 | 9 | Dec. 1974 | industrial |
| Urbana | .5 | 8¼ | Dec. 1974 | industrial |

Speaking in May 1974 at the Fifth Intergovernmental Workshop, cosponsored by the Illinois Department of Local Government Affairs and the Illinois Department of Business and Economic Development, bond attorney Charles Carlson pointed to several advantages of the use of industrial revenue bonds by municipalities. The responsibility for repaying money borrowed belongs to the tenant who leases the developed property from the municipality. The debt is not that of the municipality, and it does not count in calculating the municipality's debt rate limit. In this time of high interest rates, a commercial or industrial tenant receives the benefit of municipal borrowing power at relatively low rates. A bank, not the municipality, administers the financial agreement. In addition, industrial revenue bonds should not be subject to federal income taxes, and various state and federal securities laws may not apply.

## Home Rule and the Courts

### CHICAGO SUBJECT TO JURISDICTION OF PCB

The Illinois Environmental Protection Agency filed complaints against Chicago before the state Pollution Control Board (PCB). The complaints concerned a landfill and three incinerators. Chicago argued that as a home rule unit with an environmental ordinance it was not subject to the Illinois Environmental Protection Act. In agreement with the city's position, the circuit court enjoined proceedings before the board.

Appeal of the lower court's decision was directly to the Illinois Supreme Court (*City of Chicago* v. *Pollution Control Board of the State of Illinois*, 59 Ill. 2d 484 [1975]). The court decided that the city was subject to the Environmental Protection Act and consequently to the jurisdiction of the PCB. The act, which went into effect before the 1970 Illinois Constitution, does not restrict home rule powers expressly. The court recognized that the act allows local environmental programs, but

stated that such programs must conform with the minimum standards established by the legislature: "Without such an interpretation of the Constitution and the Act it would be difficult if not impossible for the General Assembly to perform the mandate of maintaining a healthful environment imposed upon it by Article XI [the environment article] of the 1970 Constitution." Because a determination of the issues in this case required a construction of two seemingly conflicting constitutional provisions — home rule and environmental policies — the court approved the city's proceeding in the courts without exhausting otherwise mandatory administrative remedies.

## PREEMPTION LAWSUITS

In March 1974 the Illinois Supreme Court declared unconstitutional the occupational licensing act (*Fuehrmeyer v. City of Chicago*, 57 Ill. 2d 193 (H.B. 3636, P.A. 77-1818)). Three months later the General Assembly, apparently correcting the technical defects which the court found in H. B. 3636, passed a series of 29 bills preempting home rule authority in most of the areas covered by the original act.

Three of the bills are now the subject of new litigation. These bills concern real estate brokers, insurance, and detectives (*Ill. Rev. Stats.*, 1974 Supp., ch. 114½, sec. 124; ch. 73, sec. 614.1; and ch. 38, sec. 201-27). Two of the cases were filed in January in the Cook County circuit court. *Andruss v. City of Chicago* (no. 75 L 1108) concerns the preemption of local licensing and regulation of real estate brokers, and *Prudential Insurance Co. v. City of Chicago* (no. 75 CH 300) questions whether the preemption legislation concerning the insurance business exempts that business from Chicago's employers' expense tax ("head tax").

Defendants in the *Andruss* case are all home rule and non–home rule municipalities that license or regulate real estate brokers as a special class. Thus any municipality in the state is subject to this suit in Cook County. This aspect of the case prompted intervention by the Illinois Municipal League (IML). The IML argued in part that variations among home rule ordinances require that a class action of this sort is not allowed. In early May Judge Samuel Epstein ruled against the IML's position.

In the suit involving preemption of the licensing and regulation of detectives, the city of Chicago has prevailed at the trial court level. On April 1, 1975, Judge Donald O'Brien (Cook County circuit court) granted the city's motion to dismiss the complaint in the case (*United Private Detective and Security Association, Inc. v. City of Chicago*, no. 75 CH 1662). Several security services and detectives' associations sought to enjoin the city from enforcing its ordinance licensing and regulating security firms. A complaint was filed originally in the United States District Court, Northern District (no. 75 C 23), but the federal court decided to abstain at least until the state courts resolve the home rule questions. The Illinois Supreme Court has granted a motion for direct appeal (no. 47531).

## LIQUOR CONTROL

*Drinking Age.* Two recent state appellate court decisions uphold ordinances enacted by Berwyn, Calumet City, and Joliet which raise to 21 the age to consume all alcoholic beverages, including beer and wine (*Illinois Liquor Control Commission v. City of Joliet*, 26 Ill. App. 3d 27 [1975], and *Illinois Liquor Control Commission v. City of Calumet City*, Illinois Appellate Court, First District, no. 60761). The ordinances were in apparent conflict with an amendment to the state Dram Shop Act which allows 19- and 20-year olds to drink beer and wine. Recognizing a history of local involvement in liquor control, the courts decided that (1) the establishment of a 21-year-old drinking age pertains to a home rule unit's government and affairs, (2) the amendment to the Dram Shop Act did not preempt home rule authority to set a drinking age different from that set by state law, and (3) the ordinances were not unreasonable or discriminatory.

*Liquor Licenses.* An applicant for a liquor license may appeal to the state Liquor Control Commission if a local liquor control commission refuses to grant his request. The state commission may review only the record of the local decision and may not conduct a new trial on the merits of that decision if this is specified in an ordinance of a home rule municipality under 500,000 population. If a home rule municipality has a population over 500,000 (Chicago is the only municipality in this category), the state commission is not limited to reviewing the record. It must conduct a hearing based on the issues (*Ill. Rev. Stats.*, 1973, ch. 43, sec. 153). In *Daley v. Los Laureles* (22 Ill. App. 3d 441 [1974]) the Illinois Appellate Court, First District, recognized, and by implication approved, this legislatively defined classification of the way in which the decisions of home rule units' liquor commissions are reviewed.

## DESIGNATION OF FORM OF ADMINISTRATIVE REVIEW

Four Illinois judicial rulings state that under local ordinances home rule units may not designate forms for judicial review of administrative decisions. According to these rulings, such designation does not pertain to home rule units' government and affairs. The first case to state this restriction on home rule powers was the Illinois Supreme Court's ruling in *Paper Supply Co. v. City of Chicago* (57 Ill. 2d 553 [1974]), which otherwise upheld Chicago's employers' expense tax. This restriction was reiterated by the court in *Cummings v. Daley* (58 Ill. 2d 1 [1975]), which concerned Chicago's fair housing ordinance.

In deciding the cases *Nowicki v. Evanston Fair Housing Review Board* (25 Ill. App. 3d 129 [1975]) and *Quinlan and Tyson, Inc. v. City of Evanston* (25 Ill. App. 3d 879 [1975]) the first and fourth divisions of the Illinois Appellate Court, First District, agreed that *Paper Supply* and *Cummings* required a finding that Evanston may not incorporate the Administrative Review Act into its fair housing ordinance. The two divisions disagreed as to the jurisdiction of the circuit courts. In *Nowicki*

the fourth division found that the circuit court may not treat its review of the board's decision as a writ of certiorari (a method for reviewing administrative decisions). In *Quinlan*, however, the first division noted that allowing review as though it were under a writ of certiorari does not expand the subjects over which the circuit court has jurisdiction. The first division reasoned that in substance the Administrative Review Act is not unlike a writ of certiorari and that it would be harsh, particularly in view of the relative newness of the *Paper Supply* case, to remand the matter only in order to correct the label on the procedure.

## ACCESS TO RESTROOMS

A Chicago ordinance enacted in March 1973 bans pay toilets in all municipal buildings and in all buildings open to serve the public (*Municipal Code of Chicago*, ch. 66, sec. 5.11). The owners of a bus terminal, a coin lock manufacturer, and a sanitation service sought a judgment to invalidate this ordinance. The Illinois Appellate Court, First District, affirmed the constitutionality of the ordinance, as had the circuit court. The appellate court, however, reversed the circuit court's holding that the plaintiffs were entitled to compensation for loss of their investments in locks and impairment of their contract rights (*Greyhound Lines, Inc.* v. *City of Chicago*, 24 Ill. App. 3d 718 [1975]). Compensation was not required, held the appellate court, because the plaintiffs did not show the ordinance to be unreasonable or arbitrary, and therefore the ordinance was a reasonable exercise of the city's police power.

The court also declared that the ordinance was a permissible exercise of home rule power:

> By virtue of the 1970 Illinois Constitution, Chicago is a home rule unit. As such, Chicago has been granted the power "to regulate for the protection of the public health, safety, morals and welfare." . . . Since a system for waste disposal and the regulation of lavatories are obviously related to the public health . . . the power to enact the . . . ordinance is constitutionally authorized.

In its decision the court also noted several statutes which would authorize the ordinance.

## PLANNED UNIT DEVELOPMENTS

The zoning provisions in the Illinois Municipal Code require a simple majority vote of a city council to approve certain actions and a two-thirds vote to approve other actions. (See, for example, *Ill. Rev. Stats.*, 1973, ch. 24, sec. 11-13-14.) A Champaign ordinance allows preliminary approval of a planned unit development (PUD) by a simple majority vote of the council. The ordinance was challenged on the ground that a PUD requires a two-thirds vote, as is needed for an amendment to the city's zoning ordinance. In *Johnny Bruce Co.* v. *City of Champaign* (24 Ill. App. 3d 900 [1975]) the appellate court found that the city "in the adoption of its general zoning ordinance on an amendment thereto relating to PUD is not limited in the exercise of its power by the then existing enabling statutes. . . . The precise procedure for the exercise of this power and the resolution of zoning problems must be left to the local exercise of this new constitutional grant of power [home rule]."

## LAND DONATION ORDINANCE

The city of Naperville has an ordinance requiring developers to donate land for schools and parks (or cash in lieu of land) as a condition for approval of subdivision plats. The city had enacted the ordinance before it reached 25,000 population and thus acquired home rule status. The mayor and city council reenacted the ordinance under home rule to remove as much doubt as possible concerning their power to act in this area. In November 1974 the land donation ordinance was upheld by the DuPage County circuit court (*Krughoff* v. *City of Naperville*, no. 72-2628-G). On February 4, 1975, the plaintiff filed an appeal in the Illinois Appellate Court, Second District (no. 75-53).

## ZONING ACT INAPPLICABLE TO HOME RULE MUNICIPALITIES

A Chicago landowner demolished a single-family dwelling and began construction on a 29-story building. One side of the building will be one to four feet from the only windows for 16 units of a neighboring four-story building. The Cook County circuit court dismissed an attempt by the owners of the smaller building to prevent construction of the larger building. Considering many issues, the Illinois Appellate Court, First District, reversed the dismissal (*Cain* v. *American National Bank and Trust Co.*, 26 Ill. App. 3d 574 [1975]).

Of relevance to Illinois home rule is the court's analysis of the plaintiff's argument that the lack of side yard requirements is a violation of Chicago's zoning ordinance and of the state zoning enabling act (*Ill. Rev. Stats.*, 1973, ch. 24, sec. 11-13-1). Both the ordinance and the act list among their purposes the provision of adequate light and air and protection from fire. The court noted that the plaintiff could not rely on the act:

> For by its very terms, that statute does not apply to any municipality which is a home rule unit. Since Chicago is a home rule unit . . . its power to zone for the public health, safety, morals, and welfare now properly derives from the Illinois Constitution and its grant of power to home rule units.

In its consideration of the city's ordinance, the court would not read a statement of purpose in an ordinance as an absolute right.

## OTHER HOME RULE CASES

*Illinois Supreme Court. Paglini* v. *Police Board of the City of Chicago* (no. 46340), argued in January 1975, questions the constitutionality of the city's hearing-officer procedure in disciplinary cases involving policemen. *City of Carbondale* v. *Van Natta* (no. 47134), argued in May 1975, questions the city's authority to regulate setback lines outside its corporate limits. *Metropolitan Sanitary District of Greater Chicago* v. *City of Des Plaines* (no. 47271), where in January 1975 the court refused a motion by the district to hear a declaratory judgment, questioned the city's continuing resistance to the district's

efforts to locate a water reclamation plant within the city's corporate limits without meeting requirements of local zoning or health ordinances.

*Illinois Appellate Court. Williams v. City of Chicago* (First District, no. 61547), filed in February 1975, questions the constitutionality of the city's transaction tax ordinance. *City of Highland Park v. County of Cook* (Second District, no. 74-384), argued in December 1974, questions the authority of the city to require the county to seek the city's authorization for county construction within the city's limits. *City of Joliet v. Sielaff* (27 Ill. App. 3d 450), decided in April 1975, held moot the city's attempt to use its zoning ordinance as a basis for preventing the Illinois Department of Corrections from converting a juvenile facility into an adult correctional facility on state-owned property within the city's corporate limits.

*Illinois Circuit Courts. City of Elgin v. Illinois Liquor Control Commission* (Kane County, no. 74 CH 4763), filed in March 1974, asks for a judgment declaring that the city as a home rule unit is not subject to provisions in the state liquor control act which may require the city to obtain a state license to sell beer at a city-owned golf course. *Stryker v. Village of Oak Park* (Cook County, no. 74 L 6893), decided in April 1975, held that under home rule the village may abolish the police rank of captain (ordinarily appointed by the board of fire and police commissioners) and create the office of deputy police chief (appointed by the village manager). *McDonald v. McClure* (Cook County, no. 74 L 10623), decided in May 1975, upholds Oak Park's ordinance providing for the licensing and inspection of multiple-family dwellings. *Metropolitan Sanitary District of Greater Chicago v. City of Des Plaines* (Cook County, no. 75 L 3815), filed in February 1975, questions whether the district must comply with the city's health ordinance in establishing a water reclamation plant within the city. (A similar case is pending in the United States District Court, Northern District (no. 75 C 168), by the city against the district and the federal Environmental Protection Agency, to prevent the agency from releasing funds to the district for the plant.) *People* ex rel. *Fry v. Hawkes* (Jackson County, no. 74-MR-4), filed in January 1974, questions whether under home rule Carbondale may vest in the city manager the exclusive authority to hire and fire all municipal employees, including firemen and policemen. *Local Union 505, International Association of Firefighters, AFL-CIO, CLC v. City of Decatur* (Macon County, no. 75-CH-3), filed in January 1975, questions whether under home rule the city may without a referendum remove the authority to appoint the assistant fire chief from the board of fire and police commissioners and give that authority to the city manager — an action seemingly inconsistent with a labor agreement between the city and the union. *Sylvester v. Town of Normal* (McLean County, no. 75-CH-17), decided in April 1975, held that, without action by the town's board of fire and police commissioners, the town manager may not discharge the fire chief. *In the Matter of the Objection of the Chicago and Northwestern Transportation Co. and Ravinia Medical Building Corp.* (Lake County, no. 73 TX 216), decided in February 1975, overruled objections to elements of Highland Park's 1972 tax levy where statutory limits were exceeded. (Similar objections in other counties have been withdrawn.) *Interstate Water Co. v. City of Danville* (Vermilion County, no. 75 CH 3), argued in May 1975, questions the city's water use tax.

## AMENDATORY VETOES ON PREEMPTION BILLS

Reviewed in *Home Rule Newsletter* number 8 (fall 1974) was a series of 29 bills which take away the authority from both home rule and non-home rule units to tax, license, and regulate a number of occupations, professions, and businesses (S.B. 1502–1529 and S.B. 1638, Seventy-eighth General Assembly). The governor exercised his amendatory veto power on S.B. 1503, S.B. 1519, and S.B. 1527 and signed the others.

S.B. 1527 concerned the registration of sanitarians. The governor's message on that bill suggested removing provisions for registration without examination of persons "actively engaged in the field of environmental sanitation" for at least three of the last five years. The governor believed that the vaguely defined experience standard went too far in eliminating professional standards. The General Assembly accepted the governor's recommendation and S.B. 1527 as amended was signed into law (P.A. 78-1268).

The General Assembly's failure to act on recommended changes in S.B. 1503 and S.B. 1519 means that in effect these bills have been vetoed. S.B. 1503 concerned a provision in the Illinois Municipal Code which regulates brokers, while S.B. 1519 concerned funeral directors. The amendatory veto message on S.B. 1503 expressed concern that the bill could limit municipal powers over real estate brokers beyond the preemption intended by S.B. 1502. The message on S.B. 1519 recognized that the bill would preclude local regulation of funeral directors beyond that preempted. The message also stated that S.B. 1519 would implicitly repeal a provision in the Illinois Municipal Code (*Ill. Rev. Stats.*, 1973, ch. 24, sec. 11-22-1) which allows municipalities to provide for the location and regulation of undertaking establishments.

## DES PLAINES AND OAK LAWN LICENSING ORDINANCES

*Des Plaines.* In December 1974, the mayor and city council of Des Plaines revised the city's fee schedule for business regulation certificates (ord. no. M-45-74). City Attorney Charles R. Hug explained that as a result of the new schedule Des Plaines now raises between $200,000 and $250,000 annually, compared to $80,000 annually under the old schedule. The ordinance defines four general business categories: food, service, industrial, and retail and wholesale. Within each of the four categories is a nine-step fee division based on the floor area of the business establishment.

Mr. Hug refers to the new fee schedule as a "business licensing tax." Unlike a typical licensing scheme, the Des

Plaines business regulation ordinance does not have license revocation as a penalty for failure to pay the fee or to conform with regulatory demands. The ordinance provides instead for a fine as a penalty. Thus the ordinance seems to combine licensing and taxation.

*Oak Lawn.* In April 1974, the president and village board of Oak Lawn revised the village's fee schedule for business regulation certificates (ord. no. 74-12-19). The minimum fee schedule specifically lists almost 200 business or commercial establishments subject to the business regulation ordinance, including law offices. There is also a provision to cover establishments not specifically listed. A 15-step fee division which supplements the minimum fee is based on the floor area of the business establishment.

The Oak Lawn ordinance specifically covers some of the occupations and businesses which were subjects of 27 state legislative acts preempting home rule powers. The ordinance was enacted shortly after the supreme court decision in *Fuehrmeyer* v. *City of Chicago* (57 Ill. 2d 193 [1974]). In *Fuehrmeyer*, the occupational licensing act (H.B. 3636, P.A. 77-1818) was held unconstitutional (*Ill. Rev. Stats.*, 1973, ch. 127, secs. 901-903).

# Home Rule Profile

## HOME RULE IN COOK COUNTY

In September 1973, George W. Dunne, president of the Cook County Board of Commissioners, appointed the Cook County Home Rule Study Commission. The chairman of the 17-member commission is Philip J. Carey, a Chicago attorney who was vice-chairman of the Local Government Committee at the 1969-70 Sixth Illinois Constitutional Convention. The commission's charge was to explore alternative revenue sources and ways to incur debt, to examine the county's ability to cooperate intergovernmentally, and to survey the full scope of county government activities.

Various hearings throughout the county have been conducted by the commission's three standing committees. The three committees are concerned with revenue, government structure and operations, and intergovernmental relations, respectively. The committees are in various stages of preparing reports for eventual consideration by the full commission, but as yet there has been no formal report. The commission has neither made nor acted upon any recommendations.

When he established the commission, President Dunne anticipated a report in May 1974. For various reasons — most recently, attention by county administrators to an application for funds under the U.S. Housing and Community Development Act of 1974 — more than a year later the report has not appeared.

No formal commission or committee reports are issued. However, subjects under consideration by the committees are reported occasionally in Chicago-area newspapers. This summary of the commission's activity has been prepared from these piecemeal accounts. The summary focuses on selected issues concerning revenue, government structure and operations, and intergovernmental relations. The full commission report will deal with many other issues.

*Revenue.* One of the most controversial issues before the revenue committee was whether to recommend imposition of a county income tax. The possibility of such a tax was a factor in the November 1974 election campaign. When it became evident that the tax would be an election issue, the committee suspended hearings on the matter. Reports on the income tax indicated that consideration was given to a credit for real estate taxes paid in order to give some relief to taxpayers. Under article VII, section 6(e), of the 1970 Illinois Constitution, however, General Assembly action is required to allow home rule units to impose an income tax.

On April 8, 1975, several Chicago newspapers contained headlines on a proposed Cook County sales tax on hard liquor, beer, and wine. Interestingly, these headlines and related articles did not adversely affect the outcome of eight municipal home rule referenda held exactly one week later in the Chicago metropolitan area. In early May the liquor tax measure was passed by the county board.

Some of the unofficial proposals being considered by the revenue committee are the following: (1) income or payroll taxes; (2) selective sales tax on (a) alcoholic beverages, (b) cigarettes, and (c) parking; (3) general sales tax on (a) all goods and (b) all services; (4) countywide motor vehicle wheel tax; (5) employers' expense tax; (6) stock or commodity transfer taxes; (7) tax on items purchased out of state; (8) utilities tax; (9) miscellaneous use taxes; (10) business tax; and (11) value-added tax.

*Intergovernmental Relations.* The intergovernmental relations committee is considering the following proposals: (1) merging certain countywide services, such as law enforcement; (2) eliminating obsolete special-purpose districts by replacing them with more efficient general-purpose governments; (3) turning over administration of many unincorporated areas to bordering cities and villages; and (4) encouraging municipalities to annex property. In addition, the committee is considering other regional aspects of county government — for example, pollution control and law enforcement for smaller communities.

*Government Structure and Operations.* Under consideration by the structure and operations committee are the following proposals: (1) appointment rather than election of the county clerk, treasurer, assessor, and recorder; (2) creation of the office of an appointed county attorney to handle civil and intergovernmental matters now being handled by the elected state's attorney; (3) single-member districts for county board members; and (4) creation of new departments, including (a) a property tax administration department to unify assessment, extension, collection, and distribution now accomplished by separate officials, (b) a revenue department to handle all taxes not related to real estate, to collect taxes, and to plan tax policy, and (c) a board of assessment appeals.

*Cook County Home Rule Activity.* Despite the fact that its home rule commission has not yet reported, Cook County has assumed a leadership position in implementing home rule. To date, the Illinois Supreme Court has ruled upon the constitutionality of five of the county's home rule ordinances. Four of those ordinances concerned revenue; the other concerned the creation of a new county office.

The supreme court has upheld (1) the issuance of nonreferendum general obligation bonds (*Kanellos* v. *County of Cook*, 53 Ill. 2d 161 [1972]); (2) county wheel tax on vehicles owned by residents in unincorporated areas of the county (*Gilligan* v. *Korzen*, 56 Ill. 2d 387 [1974]); (3) simultaneous county and municipal taxes on the retail sale of new motor vehicles (*City of Evanston* v. *County of Cook*, 53 Ill. 2d 312 [1972]); and (4) creation of the office of comptroller and transfer to that office of the functions of the county clerk as ex officio comptroller (*People* ex rel. *Hanrahan* v. *Beck*, 54 Ill. 2d 561 [1973]). However, the supreme court struck the county's ordinance which provided for real estate tax payments in four rather than two annual installments (*Bridgman* v. *Korzen*, 54 Ill. 2d 74 [1973]). Although *Bridgman* was a technical setback for the county, subsequent enactment by the General Assembly of legislation accelerating delinquent dates for taxes does show that there is legislative recourse even after the courts react negatively to a home rule action (*Ill. Rev. Stats.*, 1973, ch. 120, sec. 705.1).

The *Illinois Revised Statutes* authorize counties to charge $1 in court filing fees to support a law library (*Ill. Rev. Stats.*, 1973, ch. 81, sec. 81). The Cook County board determined that the fee is insufficient and imposed a $2 fee. On April 11, 1975, ruling on a challenge to this action, the Cook County circuit court invalidated the additional $1 fee because filing fees are so closely related to the operations of the courts (*Ampersand* v. *Finley*, no. 75 CH 654). An attempt will be made to have the supreme court review the *Ampersand* decision.

Other county home rule actions include a mobile home privilege tax and an ordinance licensing and regulating mobile homes and mobile home parks. The 1971 Mobile Home Park Act (also containing a privilege tax) did not apply to home rule units. The county's tax and regulatory scheme were thus at least technical exercises of home rule authority. Subsequent legislation requires all counties to impose a 15 cents-per-square-foot tax, which is not a limit on a home rule county (*Ill. Rev. Stats.*, 1973, ch. 120, sec. 1201).

Cook County requires the county auditor to audit the accounts of special districts in cases where the county executive appoints members to the districts. Another county ordinance defines procedures for filling vacancies on the county board.

Because there are so many governmental units in Cook County, it is not surprising that intergovernmental conflicts develop occasionally. The Illinois Appellate Court, First District, decided that a home rule municipality could challenge a county zoning decision affecting land within one and one-half miles of the municipality (*Forestview Homeowners Association, Inc.* v. *County of Cook*, 18 Ill. App. 3d 230 [1974]). This is in sharp contrast to court decisions made under the previous Illinois constitution.

Another intergovernmental conflict grew from a Highland Park ordinance which requires governmental entities building in the city to obtain permission from the city. Cook County planned to widen the Lake County Road. On November 19, 1974, the Lake County circuit court refused to enjoin the county from proceeding, except where the roads in question were within the city's limits (*City of Highland Park* v. *County of Cook*, no. 74 CH 411). The city is appealing the decision to the Illinois Appellate Court, Second District (no. 74-384).

*Conclusion.* Cook County is struggling with home rule. Although it has taken a leadership role by guiding some of its ordinances past the supreme court, it still operates without a report from its home rule commission almost four years after the effective date of the 1970 Illinois Constitution. Unlike a municipality undertaking a similar effort, the county is proceeding alone as the only home rule county in the state. When the Cook County home rule report is complete, other counties, perhaps with a better understanding of the advantages of home rule for counties, may decide to consider home rule for themselves.

KURT P. FROEHLICH

## GENERAL ASSEMBLY PREEMPTION IN TWO NEW AREAS

*Health and Planning.* In June 1974 the General Assembly passed Senate Bill 1609 (P.A. 78-1156), creating the Illinois Health Facilities Planning Act. This legislation establishes a state planning agency to develop standards, rules, and plans concerning health care facilities. The act declares state exclusivity in this area, precluding activity by home rule units:

> It is hereby specifically declared that the powers and functions exercised and performed by the State pursuant to this Act are exclusive to the State of Illinois and that these powers and functions shall not be exercised, either independently or concurrently, by any home rule unit (*Ill. Rev. Stats.*, 1974 Supp., ch. 111½, sec. 1167).

A dissent was filed in the House of Representatives to the speaker's ruling that only a simple majority vote, not a three-fifths vote, was required to pass the bill. The dissent claimed that forbidding a home rule unit from "independently" exercising powers covered in the act required a three-fifths vote under article VII, section 6(g), of the constitution (House *Journal*, June 28, 1974). The bill did receive more than three-fifths of the votes in both the House and the Senate.

*Drug Abuse.* House Bill 2826 (P.A. 78-977) was also passed in June 1974. This law amends the Dangerous Drugs Abuse Act by creating the Dangerous Drugs Commission. The commission is responsible for administering a licensing program for drug abuse care facilities, developing a statewide plan to improve drug abuse facilities and programs, acting as the state planning agency for federal drug abuse programs, and establishing a clear-

inghouse for information on drug abuse. The new act cites sections 6(h) and (i) of article VII in preempting local action:

It is declared to be the public policy of this State, pursuant to paragraphs (h) and (i) of Section 6 of Article VII of the Illinois Constitution of 1970, that the powers and functions set forth in this Act and expressly delegated to the Dangerous Drugs Commission are exclusive state powers and functions. Nothing herein prohibits the exercise of any power or the performance of any function, including the power to regulate for the protection of the public health, safety, morals and welfare, by any unit of local government, including a home rule unit, other than the powers and functions set forth in this Act and expressly delegated to the Dangerous Drugs Commission to be exclusive state powers and functions (*Ill. Rev. Stats.*, 1974 Supp., ch. 91½, sec. 120.28).

This preemption was added by amendment in the Senate. Because the House refused to accept the amendment, a conference committee was formed to adjust the differences between the two houses. A second conference committee was necessary before both houses finally agreed upon the preemption provision quoted above.

The original bill received a simple majority vote in the Senate and a three-fifths vote in the House. Approval of the second conference committee's report was by more than three-fifths vote in each house.

### HARVARD REFERENDUM

Scheduled for July 12 is a home rule referendum in Harvard (McHenry County, 1970 population 5,177). According to Mayor William LeFew, no particular issue has provided impetus for the referendum. Mayor LeFew views home rule as a way in which his city can exert more direct control over its own affairs, with possibly less interference from county government. He noted that the potential for increased taxes under home rule is not a matter of dispute. There are several taxing measures permitted under state law which the municipality is not exercising.

## Abstract

1972 COUNTY HOME RULE REFERENDA edited by David Beam. Center for Governmental Studies, Northern Illinois University (forthcoming, 1975).

On March 21, 1972, home rule referenda were held in nine Illinois counties: DeKalb, DuPage, Fulton, Kane, Lake, Lee, Peoria, St. Clair, and Winnebago. All nine referenda failed by wide margins, with "no" votes ranging from 68 percent in DeKalb County to 90 percent in St. Clair County. In "1972 County Home Rule Referenda" (56 pages in its original draft form) the Center for Governmental Studies analyzes the failures. Data for the study were based on responses to a mail questionnaire in each of the nine counties.

Respondents to the questionnaire in each county included the county board chairman, the county clerk, the county treasurer, the county chairmen of the Democratic and Republican party organizations, the executive secretary of the county Farm Bureau, the mayor of every municipality over 25,000 population (or of the largest municipality in the county), and the editor of the newspaper of largest circulation in each of these communities. Of the group of 90 potential respondents, 53, or 59 percent, filled out questionnaires.

Respondents were asked questions in four major areas: (1) leading campaign supporters and opponents, (2) campaign themes, (3) campaign activities, and (4) levels of participation. The final report analyzes responses in each area both county by county and on an aggregate level for all nine counties.

Perhaps the most interesting information resulting from the survey is its identification of leading supporters and opponents. The figure below summarizes respondents' perceptions of the positions of leading campaign figures, both for all nine counties as a group and for each individual county.

| *Position or Occupation* | *all nine counties* | *DeKalb* | *DuPage* | *Fulton* | *Kane* | *Lake* | *Lee* | *Peoria* | *St. Clair* | *Winnebago* |
|---|---|---|---|---|---|---|---|---|---|---|
| League of Women Voters member | s | s | s | – | s | s | s | s | u | s |
| Newspaperman | s | s | o | – | u | u | – | s | o | s |
| Former Con-Con delegate | s | s | u | o | – | s | – | s | o | u |
| College professor | s | s | s | s | u | u | s | – | o | u |
| School teacher, administrator | s | s | s | – | – | u | – | – | o | s |
| U.S. representative | s | – | s | – | – | o | – | – | o | s |
| State legislator | u | s | s | o | o | u | o | u | o | u |
| Appointed county officer | u | s | u | s | – | u | o | – | o | s |
| Candidate for county office | u | s | o | u | u | s | – | u | o | s |
| Democratic party official | u | s | o | o | – | s | s | o | o | u |
| County employee | u | o | u | – | – | u | o | – | u | s |
| County board member | u | u | u | u | s | u | u | o | o | s |
| Mayor | u | s | o | s | u | u | s | – | o | – |
| Other municipal official | o | s | o | s | o | u | u | – | o | – |
| Banker | o | u | o | – | – | u | o | s | o | u |
| Large landowner | o | u | o | s | o | o | – | – | o | o |
| Lawyer | o | u | o | – | – | u | o | o | o | s |
| Republican party official | o | o | u | – | o | o | u | o | o | u |
| Local businessman | o | u | o | o | – | u | o | s | o | o |
| Doctor or dentist | o | o | o | o | – | u | o | o | o | u |
| Labor union leader | o | – | – | o | o | o | o | o | o | o |
| Business executive | o | o | u | – | – | u | o | s | o | o |
| Elected county officer | o | u | o | s | o | u | o | o | o | u |
| Insurance agent | o | o | o | o | o | o | o | o | o | o |
| Farmer | o | u | o | – | o | o | o | o | o | o |
| Real estate agent | o | o | o | o | o | o | o | o | o | o |

s identified as supporting home rule
o identified as opposing home rule
u identified as uncommitted to home rule
– no data identifying position on home rule

There was great variation among the respondents as to the number of individuals they identified as leading supporters or opponents. Of the individuals whom respondents identified as leading supporters, members of the League of Women Voters were overwhelmingly perceived as supporters (by 61 percent of all the respondents), while only 11 percent of the respondents identi-

fied their U.S. representative as supporting home rule. Similarly, 60 percent of the respondents identified elected county officers as opposing home rule, but only 19 percent identified large landowners as supporting the measure. In general, respondents perceived opponents of county home rule as more visible in the campaigns. This is consistent with respondents' identification of leading campaign themes: respondents evidenced a significantly higher awareness of arguments advanced in opposition to county home rule than of arguments in support of the measure.

Opponents' arguments cited most often by respondents were the following: "Home rule will result in higher taxes" (91 percent of respondents), "We don't know enough about county home rule yet" (83 percent), "Home rule will result in new taxes" (83 percent), "Home rule will put too much power in the hands of the county executive" (79 percent), and "Home rule will result in licenses for professions and businesses" (64 percent). Respondents cited these arguments as used most often in support of home rule: "We need the centralized, full-time leadership that a county executive could provide" (66 percent), "Home rule will return power over local affairs to local people" (59 percent), "Home rule will free the county from excessive state legislative controls" (57 percent), and "Home rule will increase the ability of the county to provide needed services" (49 percent).

According to the respondents, both supporters and opponents relied upon letters to the editor, paid newspaper advertising, special public meetings, providing speakers to interested groups, and radio advertisements to promote their points of view. Opponents, however, employed these techniques much more heavily. This is consistent with independent findings.

One of the major concerns of the study in the section on levels of participation concerned respondents' perceptions of statewide organizations involved in the county home rule campaigns. "The single (statewide) organization identified by our respondents as supporting the proposition was the League of Women Voters; a view consistent with the inclusion of individual members of the League among the leading supporters of county home rule. Mentioned most frequently as statewide groups opposing adoption of home rule were realtors' organizations and STOP." The report continues,

> STOP (Stop Taxing Our People) was actually a statewide organization formed specifically to oppose adoption of county home rule. . . . In an interview [STOP's director] stated that members of many professions, including physicians, dentists, engineers, and real estate brokers, felt that county home rule should be deferred until the state legislature passed House Bill 3636 [see note below] to establish the state's exclusive right to license professions [and] also admitted providing background information to local opponents and speaking at meetings devoted to discussion of home rule.

[The STOP director's] remarks are both consistent with and serve to reinforce our respondents' assessment of campaign activities. Members of professional occupations potentially subject to the licensing power granted home rule units were identified among the leading opponents of county home rule as individuals and as members of organized groups. Opponents were also perceived as more actively engaged in the distribution of campaign literature, the majority of which originated from local STOP committees.

On a statewide basis, the characteristics of the campaigns reported by our respondents were largely predictive of the outcome of the March 1972 referenda. Visible opposition to the proposal was widespread among potentially influential individuals and organized groups. Opponents of county home rule communicated their arguments more effectively and in greater number than supporters. Supporters' arguments based on the need for professional administration, local control, and increased provision of needed services were effectively countered by emotional warnings of new and increased taxes, licenses for professions and businesses, and excessive centralization of power in the county executive.

Efforts to defeat the proposal evidenced a higher degree of statewide organization and coordination, reflected in the activities of STOP and the use of nonresident speakers, than corresponding efforts by supporters. Combined, these characteristics contributed to the resounding negative voter reaction to adoption of county home rule.

It appears, as suggested by a respondent from Lee County, that "the average citizen voted his fears of home rule."

(*Note:* Since the March 1972 referenda, and since this analysis was made, the General Assembly has enacted legislation preempting home rule authority over a number of occupations, professions, and businesses noted as generally opposed to county home rule in 1972. In addition, since the referenda were held there have been many Illinois Supreme Court cases interpreting home rule and several hundred home rule ordinances indicating how home rule powers may be used.)

# Intergovernmental Cooperation

## LABOR RELATIONS

A recent Illinois Supreme Court decision indicates that certain strikes by municipal employees are illegal and thus may be enjoined by municipal action (*City of Pana* v. *Crowe,* 57 Ill. 2d 547 [1974]). It is not clear whether a municipality has the power to stop a strike by employees of a private company with which the municipality contracts for services.

Peoria, a home rule municipality, contracts with a private firm, Peoria Water Company, for the city's water supply. When in June 1974 water company employees struck, there was a possibility that the city would be without adequate water mains, that the water system would be contaminated, and that no water would be available to fire hydrants. The city sought an injunction in the Peoria County circuit court to make workers available for emergency repair work (*City of Peoria* v. *Peoria Water Co. and Laborer's International, Local No. 165,* no. 74 E 2967). The court indicated that it would issue an injunction, but did not make a formal ruling on the city's request because the city and the union settled their dispute. Peoria Corporation Counsel Jack Teplitz commented that a home rule ordinance in this area might clarify the question of who has authority to enjoin private employees from a strike which would have an adverse effect upon the public.

## TOWNSHIP INTERGOVERNMENTAL AGREEMENTS

A recently enacted Illinois law and an opinion of the Illinois Attorney General clarify two problems associated with the use of revenue-sharing funds by Illinois townships. Townships' authority to make expenditures was expanded by the state legislature. This law (*Ill. Rev. Stats.*, 1974 Supp., ch. 139, sec. 126.10) allows townships to spend funds for almost all of the purposes listed in the U.S. State and Local Fiscal Assistance Act of 1972. Such expenditures, however, must involve intergovernmental contracts or associations.

In opinion number S-877 (March 17, 1975), the attorney general pointed to the increased potential for intergovernmental cooperation brought about by the above law, by the 1970 Illinois Constitution (art. VII, sec. 10), and by the state Intergovernmental Cooperation Act (*Ill. Rev. Stats.*, 1973, ch. 127, secs. 741-747). The opinion stated that because of the increasing number of intergovernmental agreements an individual may not simultaneously hold the positions of township supervisor and county board member.

## MORTGAGE FINANCING

On March 12, 1973, the DeKalb city council passed an ordinance authorizing a $190,000 note together with a mortgage on certain municipal property (ord. no. 73-10). The city planned to develop a parking facility on the property. The loan is for a 15-year term. The local bank involved in the transaction is lending the money on the basis of independent legal counsel's assurance that interest on the obligation is exempt from federal income taxes. The loan is repayable solely from revenue derived from the city's parking system.

DeKalb ordinance number 73-11 provides for an escrow agreement with a local bank. The ordinance cites home rule authority and states that "the note and mortgage method of financing [such projects] has not heretofore been established in Illinois." DeKalb City Attorney Bernard Paul stated that an alternative financing device — parking revenue bonds — would probably have involved at least a 6½ percent interest rate. The interest rate on the DeKalb note-mortgage is 4½ percent. The city's interest saving alone at the lower rate is more than $36,000.

## LAST ISSUE OF NEWSLETTER

This is the ninth and final issue of the *Home Rule Newsletter*, ending direct involvement in the Illinois Home Rule Clearinghouse and Policy Analysis Project by the Institute of Government and Public Affairs.

The Illinois Department of Local Government Affairs will continue the clearinghouse aspect of the project. Inquiries should be directed to the Office of Community Services, Department of Local Government Affairs, 303 East Monroe Street, Springfield, Illinois 62706 (217-782-5884), or 160 North LaSalle Street, Chicago, Illinois 60601 (312-793-4856).

A list of project-related publications appears in the following article.

## HOME RULE PROJECT PUBLICATIONS

During its three years the Illinois Home Rule Clearinghouse and Policy Analysis Project has produced a number of publications. A list of these publications follows. Unless otherwise indicated, all may be obtained free from the Illinois Department of Local Government Affairs, 303 East Monroe Street, Springfield, Illinois 62706.

Stephanie Cole. *Home Rule Handbook for Illinois Local Officials* (1975).

Stephanie Cole. "Home Rule in Illinois: No. 1. The Constitutional Provisions." *Illinois Issues*, vol. 1, no. 4 (April 1975); "Home Rule in Illinois: No. 2. The Supreme Court's Decisions." *Illinois Issues*, vol. 1, no. 5 (May 1975); "Home Rule in Illinois: No. 3. General Assembly Action." *Illinois Issues*, vol. 1, no. 7 (July 1975); "Home Rule in Illinois: No. 4. Local Action." *Illinois Issues*, vol. 1, no. 8 (August 1975).

Stephanie Cole, ed. *Home Rule Newsletter* (November 1972-spring 1975, nine issues; nos. two, three, four, and five out of print).

Stephanie Cole, ed. "The Local Government Committee Reconvenes: Home Rule and Intergovernmental Cooperation in Illinois" (1975).

Stephanie Cole and Samuel K. Gove, eds. *Home Rule in Illinois: Final Report, Background Papers, and Speeches, Assembly on Home Rule in Illinois* (1973).

Richard L. Day. "Home Rule Use by Illinois Municipalities: The First Three Years." *Illinois Government Research* no. 40 (June 1975).

Kurt P. Froehlich. "Home Rule by Referendum in Nine Illinois Municipalities." *Illinois Municipal Review* (June 1974).

Kurt P. Froehlich. *Summaries of Cases Involving Illinois Home Rule*. Illinois State Bar Association (1973; 1974 Supplement).

Kurt P. Froehlich. "Illinois Home Rule: Municipal and County Ordinances May Supersede State Laws." In *Chicago Land Development*. Chicago Association of Commerce and Industry (April 1975).

Kurt P. Froehlich, John A. Rehfuss, and Michael S. Husby, eds. "A Guide Book for City Officials of the City of East St. Louis: Highlighting the Transition from Commission Form to Aldermanic Form of Government." Southern Illinois University — East St. Louis Center (1975).

*Home Rule: An Annotated Bibliography with Emphasis on Illinois* (1974). Available from the Institute of Government and Public Affairs, 1201 West Nevada Street, Urbana, Illinois 61801 (single copies free to Illinois residents; $2 charged to out-of-state residents).

"Home Rule Briefs." (An occasional feature in *LGA Reports*.)

"Home Rule for Small Communities." In *1975 Report for the Small Communities Improvement Pilot Project*.

"Illinois Home Rule: Some Basic Information" (February 1974).

In addition to the project publications noted above, Kurt P. Froehlich, a former staff member of the home rule project who is now Champaign assistant city attorney, has written the following independent of the project:

"Home Rule." In *Illinois Municipal Law* (1974). Available from the Illinois Institute for Continuing Legal Education, 2395 West Jefferson Street, Springfield, Illinois 62702.

"Illinois Home Rule in the Courts." *Illinois Bar Journal* (February 1975).

# Home Rule Newsletter

*University of Illinois*
*Institute of Government and Public Affairs*
*1201 West Nevada Street*
*Urbana, Illinois 61801*

HOME RULE NEWSLETTER
Institute of Government and Public Affairs, University of Illinois
Department of Local Government Affairs, State of Illinois
*Editor:* STEPHANIE COLE
*Technical Adviser:* KURT P. FROEHLICH

The *Home Rule Newsletter* has been published on an occasional basis as one aspect of the Illinois Home Rule Clearinghouse and Policy Analysis Project. The newsletter has focused upon home rule developments in Illinois, but events in other states were also reported. Materials may be reproduced without permission, although credit to the source is appreciated.

# ILLINOIS MUNICIPAL LEAGUE

1220 SOUTH 7th STREET • SPRINGFIELD, ILLINOIS 62708 • P.O. BOX 3387

**Home Rule Newsletter** **December, 1975**


*The material contained in this newsletter was developed by the COMMUNITY SERVICES DIVISION OF THE DEPARTMENT OF LOCAL GOVERNMENT AFFAIRS. Because of the value of this information the ILLINOIS MUNICIPAL LEAGUE is happy to cooperate with the Department of Local Government Affairs in publishing this newsletter.*

## HOME RULE IMPLEMENTATION

Home Rule Newsletter No. 8 (previously published by the University of Illinois) contained an article about ordinances passed by home rule units which would have been questionable, if not impossible, before the 1970 constitution. That article was based primarily on ordinances received as a result of a survey of home rule units conducted by the Institute of Government and Public Affairs at the University of Illinois. Since few ordinances covering home rule actions after July 1, 1974 were received, another survey was begun by Kurt Froehlich, while in the Office of Community Services, Department of Local Government Affairs, in April 1975. The results of the earlier survey and the recent one, containing actions taken through November 1975, were combined by Randy Shick, also from Community Services.

The profile does not always clearly indicate the subtle ways in which various actions deviate from apparent proscriptions or definitions in the statutes. Rather, it provides an overview, as complete as possible, of home rule implementation. Home rule actions are outlined under the following headings: taxation, debt, licensing and regulation, form and structure of government, officers and employees, penal ordinances and intergovernmental relations.

Most of the data for the recent survey were obtained from responses of attorneys who represent home rule municipalities and Cook County. Copies of ordinances referred to by respondents were requested. The outline below is based on ordinances actually received by the Department of Local Government Affairs as a result of the survey as well as ordinances obtained by other means.

# HOME RULE ACTIONS

## TAXATION

### *Home rule taxes*

1. Amusement tax: Cicero, Villa Park
2. Cigarette tax: Chicago
3. Employers' expense tax ("head tax"): Chicago
4. Gasoline tax: Evanston, Stone Park
5. Hotel-motel tax: Chicago, Des Plaines, Evanston, Morton Grove, Palatine, Rosemont, Skokie, Springfield, Stone Park
6. Mobile home privilege tax: Cook County, Des Plaines
7. Parking tax: Chicago
8. Retail sale of new motor vehicles privilege tax: Arlington Heights, Cook County, Des Plaines, Evanston, Niles
9. Transaction tax: Chicago
10. Wheel tax: Calumet City, Chicago, Cook County, Mount Prospect
11. Utilities tax: Oak Park, Danville
12. Use tax on personal property bought outside Illinois: Northbrook

### *Local tax procedures*

1. Tax levy
   a. Levy on basis of single percentage of assessed valuation rather than separate levies at varying rates: Bedford Park, Evanston, Park Forest, Rock Island, Des Plaines
   b. General corporate levy exceeds statutory limit: Rock Island, Wilmette
   c. Authorization for library tax levy to exceed statutory limit: Belleville, Champaign
2. Locally imposed tax limitations filed with county clerk: Belleville
3. Notice requirement for ordinance proposals concerning actions not authorized under Illinois Municipal Code and requirement for hearings and potential for "backdoor referendum" in relation to home rule tax: Downers Grove
4. Four-installment real estate tax collection: Cook County

## DEBT

### *Bonds*

1. Nonreferendum general obligation bond issues: Aurora, Champaign, Chicago, Cook County, Des Plaines, Elmwood Park, Evanston, Glenview, Mount Prospect, Normal, Northbrook, Oak Park, Palatine, Quincy, Rosemont, Wilmette
2. Procedure and authorization for nonreferendum general obligation bonds (no bonds issued): Evergreen Park, Granite City, Urbana, Decatur
3. Industrial project revenue bond issues: Alton, Bedford Park, Bryant, Decatur, Galesburg, Granite City, Kankakee, Springfield, Urbana
4. Procedure and authorization for industrial project revenue bonds (no bonds issued): Addison, Belleville, Cicero, Danville, Joliet, Rockford, Downers Grove, Des Plaines, Champaign
5. Revolving loan fund for low interest loans for rehabilitation of substandard residences: Champaign
6. Hospital facility revenue bonds: Alton, Rockford, Belleville, Freeport, Des Plaines
7. Authorization to exceed statutory interest rate for library bonds: Champaign

### *Other borrowing techniques*

1. Ordinary bank loans: Bloomington, Burbank, DeKalb, Highland Park, Mound City, Park Forest, Stone Park
2. Procedure and authorization for ordinary bank loans: Kankakee, Park Ridge, Rosemont

## LICENSING AND REGULATION

### *Land use*

1. Land use practices
   a. Land donations, or cash in lieu of land, as condition for subdivision plat approval: Aurora, Naperville
   b. Payment of actual "per hour" costs of subdivision plat reviews: Naperville
   c. Requirement of disclosure of names of trust beneficiaries to obtain variation or other administrative review: Des Plaines, Elmhurst
   d. Planned unit developments: Park Forest, Wheaton
      1). PUD approval by majority instead of ⅔ vote: Decatur
      2). Procedures for contracting with owners of PUD to provide services: Mt. Prospect
   e. Conditional zoning or restrictive covenants: Highland Park, Naperville, Wheaton
   f. Relocation payments under urban renewal: Bloomington, Rockford
   g. Demolition or repair of dangerous, unsafe, or abandoned buildings: Chicago Heights, Countryside, Norridge, Oak Park, Peoria, Rockford, Rosemont
2. Environmental matters
   a. Environmental control ordinances: Carbondale, Chicago, McCook
   b. Licensing and regulation of pesticide application: Palatine, Schaumberg
   c. Regulation of extraterritorial water supply source: Carbondale
   d. Sign control: Freeport, DeKalb
   e. Drainage and detention basins: Park Forest
   f. Anti-litter: Park Forest
   g. Noise pollution: Des Plaines
3. Residences and residential areas
   a. Apartment license (fee paid by owner): Arlington Heights, Oak Park
   b. Mobile home and mobile home park license: Cook County, Stone Park
   c. Definition of "clear view area" (weeds and plants) at corners: Evergreen Park
   d. Home occupation and business license: Rockford
   e. Authorization to clean up trash on residential premises: Decatur
   f. Modular and prefab building allowed: Decatur
   g. Home insulation requirements in building code: Naperville
4. Commercial matters
   a. Moratorium or limit on construction of new service stations: Morton Grove, Skokie
   b. Lakefront ordinance: Chicago
   c. Standards for building construction to provide facilities for the handicapped: Champaign
   d. Regulation and repair of private commercial parking lots of public concern (City to charge owner for work): Des Plaines
   e. Requires pricing of items in food stores: Des Plaines, Chicago, Franklin Park, Skokie

### *Liquor control*

1. Authorization of sale of liquor: Evanston, Highland Park, Normal
2. Prohibition of sale of liquor or admission fee: Park Ridge, Elmhurst
3. Wording of questions on referenda on serving liquor: Wilmette
4. Age
   a. Age 21 to consume alcoholic beverages (including beer and wine): Berwyn, Calumet City, Joliet, Maywood, Norridge, Rosemont, Villa Park
   b. Age 19 to consume all alcoholic beverages: DeKalb
   c. Age restrictions to entertain or serve alcoholic beverages in licensed bar: Bloomington, Peoria (age 19); Aurora, Decatur, Joliet, Norridge, Villa Park (age 21)
   d. Age 18 to consume beer and wine: Urbana
5. Discontinuance of liquor prohibition in annexed property without referendum: DeKalb
6. Sale of liquor on municipal golf course without state license: Elgin
7. Mayor and board of trustees comprise liquor control commission: Maywood

### *Business and Commercial Activity*

1. Soliciting and peddling
   a. Prohibition if uninvited: Park Ridge
   b. Licensing and regulation: Arlington Heights, DeKalb, Mount Prospect
2. Regulation of garbage collection hours: Evergreen Park
3. Rent deposit return regulation: DeKalb
4. Fraud prevention (three days to cancel any sale made at buyer's residence): DeKalb
5. Real estate sales and lease regulation: Oak Park
6. Licensing and regulation of businesses and occupations
   a. Massage parlors: Peoria
   b. Motor vehicle towing services: Normal
   c. Installers of burglar alarm systems: Niles
   d. Private security guards: Chicago, Park Forest
   e. Comprehensive provision to cover all businesses not specifically listed in ordinances: Arlington Heights, Bedford Park, Chicago Heights, Cicero, Countryside, Morton Grove, Mount Prospect, North Chicago, Oak Lawn
   f. Manufacturers and factories (fee based on number of employees): Cicero

### *Other provisions*

1. State curfew law inapplicable: Park Forest
2. Licensing and regulation of cats: Belleville, DeKalb Hoffman Estates, Park Forest
3. Licensing and regulation of bingo: Highland Park
4. Automobile inspection license: Evanston
5. Regulating operation of bicycles: Normal
6. Abandoned or unclaimed funds of persons to go to city rather than state: Des Plaines
7. Abandoned or inoperable vehicles may be towed after 90 days: Champaign

## FORM AND STRUCTURE OF GOVERNMENT

Successful referenda for appointing rather than electing municipal clerk: Arlington Heights, Bloomington, Normal, Park Forest, Wilmette

Successful referenda increasing number of members of governing body: Arlington Heights, Highland Park

Successful referendum for part of the city council to be elected at large, part from districts: Champaign

Runoff election if no candidate for mayor or clerk receives majority of votes cast in election: Lansing

Transfer of county clerk's function as ex officio comptroller to new office of comptroller: Cook County

### *New boards, commissions, and departments*

1. Labor relations board: Des Plaines, Park Ridge
2. Landlord-tenant relations board: DeKalb
3. Public hospital board: DeKalb
4. Department of Revenue: Chicago
5. Commerce commission (cable television): DeKalb
6. Housing commission: Highland Park, Peoria
7. Department of community renewal (includes homestead program): Rockford
8. Building review board: Naperville
9. Business development board with eminent domain power: Urbana, Mt. Prospect
10. Fair employment Practices Commission: Peoria

## OFFICERS AND EMPLOYEES

### *Increased powers of manager*

1. Appointive power over municipal employees: Carbondale, Decatur, Oak Park
2. Appointive power over board of local improvements: Joliet
3. Purchasing authority: Park Ridge

### *Administrative officer*

1. Creation of office of chief administrative officer: Urbana
2. Administrative officer given managerial powers and functions: Evergreen Park

### *Board of fire and police commissioners*

1. Board appointed by mayor with consent of counsel, manager to appoint employees: Carbondale
2. Hearing of disciplinary cases by hearing officer rather than board: Chicago
3. Authority to discipline by demotion of one grade or rank: Rosemont
4. Authority to impose successive 30 day suspensions without pay: Quincy
5. Clarification of role of village attorney as board's counsel: Quincy, Rosemont
6. Change in qualifications for members of fire and police commission: Oak Park

### *Firemen and policemen*

1. Reduction in mandatory retirement age: Springfield
2. Authorization to reduce mandatory retirement age: Chicago
3. Change in age and residence requirements for position on force or for taking qualifying examination: Cicero, Quincy, Rosemont, Oak Park
4. Increase in policemen's probationary period: Decatur, Quincy, Urbana
5. Increase in firemen's probationary period: Cicero
6. Abolition of promotional military preference: Quincy
7. Limitation on leave time for injuries or military duty: Quincy
8. Administrative appointments within the departments by assigning special duties: Downers Grove
9. Grant leave of absences: Elmhurst
10. Abolition of current register of eligibles for appointment of fire department: Peoria
11. Delegation to police chief of power to dismiss probationary officers: Palatine
12. Abolition of rank of captain and creation of position of deputy police chief: Oak Park
13. City manager to appoint and remove various supervisors and employees: Decatur
14. Department of personnel substituted for civil service administration: Chicago

### *General labor relations*

1. One-year probationary period for all municipal employees: Decatur
2. No-strike provision in labor relations ordinance: Des Plaines, Park Ridge

### *Insurance and pension programs*

1. Nonreferendum adoption of fireman's and policemen's statutory pension fund: Rosemont
2. Reimbursement program for eyeglass and medical prescriptions: Rosemont

### *Mayor and council*

1. Change in mayor's salary, effective during his term of office, to reflect conversion of office from part-time to full-time: Stone Park
2. Provision for nomination of mayoral and council candidates: Peoria
3. Campaign finance disclosure: Peoria

### *County board and county auditor*

1. Provisions for filling vacancy on county board: Cook County
2. Granting to county auditor power to audit accounts of special districts to whose boards county executive has power to appoint members: Cook County

## LOCAL PROCEDURES

Home rule report: Arlington Heights, Aurora, Maywood, Park Forest, Park Ridge, Skokie, Urbana

### *Reenactment under home rule*

1. Reenactment and adoption by reference of Illinois Municipal Code: Downers Grove, Normal
2. Municipal code of ordinances: Highland Park
3. Ordinance for land donation or cash in lieu of land for schools and parks as condition for subdivision plat approval: Naperville
4. Nonconforming use ordinance: Freeport

### *Special assessments*

1. Special assessment procedure: Countryside, Freeport
2. Special assessment formula: Freeport

### *Budget procedures*

1. Notice of budget preparation rather than publication of actual budget: Park Forest
2. Budget revision: Park Forest, Park Ridge
3. Notice of treasurer's report preparation rather than publication of actual report: Kankakee
4. Abolition of requirement for annual treasurer's report or appropriation ordinance: Oak Park, Park Forest, Park Ridge, Springfield, Urbana
5. Contingency fund: Park Ridge
6. Change in fiscal year: Champaign

### *Sale, purchase, and lease of municipal property*

1. Authorization for licensing procedure rather than leasing for use of municipal auditorium: Rosemont
2. Authorization of 30-year term for installment purchase or lease of real or personal property: Champaign
3. Authorization for manager in any reasonable manner to dispose of any item of personal property of less than $100 in value which is not useful to municipality: Downers Grove
4. Requirement of bidding procedure for contracts involving a value of $1,000 or more (except when council approves contract by two-thirds vote): Berwyn

### *Council voting*

1. Definition of effect of council members' abstentions on vote requirements: Urbana
2. Simple majority vote to authorize a street vacation: Des Plaines, North Chicago
3. Three-fourths vote to sell or encumber municipal real estate for terms exceeding two years: DeKalb

State law concerning print size of notices superseded: Park Ridge

Lien and foreclosure procedure for unpaid water bills: Morton Grove, Rockford

Definition of effective date of ordinances: Normal

Supplement to senior citizens' taxi fare: Elmhurst

## PENAL ORDINANCES

Imprisonment as possible penalty for willful violations of municipal environmental control ordinance: McCook

Prohibition of enticement of unrelated minor into vehicle: Hoffman Estates

Definition of obscenity and offense of unauthorized exhibition of motion picture: North Chicago, Elmhurst

Definition of "Illegal Trespass": Normal

Fine imposed on parent negligently permitting minor to violate curfew: Park Forest

Optional decriminalization of driving while intoxicated: Park Forest

Prohibition of purchase, possession, or consumption of alcoholic liquor by persons of certain ages: Des Plaines

## INTERGOVERNMENTAL RELATIONS

### *Agreements*

1. Techny land use agreement: Glenview-Northbrook (and other units)
2. Public transportation system: Bloomington-Normal
3. Bus service agreement: Aurora-Elgin
4. Boundary agreement: Aurora-Naperville
5. Joint Solid Waste Disposal: Champaign-Urbana
6. Joint City Manager Experiment: Bloomington-Normal

### *Relations among municipalities, counties, and special districts*

1. Successful challenge by municipality of county zoning decision affecting land in unincorporated area within one and one-half miles of municipality: Northbrook-Cook County
2. Increased duration of annexation agreements: Wheaton
3. Assumption of functions of drainage district by municipality: Wheaton
4. Municipal ordinances specifically declared applicable to special districts operating within municipality's corporate limits: Highland Park
5. Construction within municipality by another governmental unit requires approval of municipal engineer: Mt. Prospect
6. Zoning Ordinance applies to property of other government units: Wilmette
7. Construction within municipality by another governmental unit requires approval of President and Board of Trustees: Highland Park

Illinois Liquor Control Commission's review of local actions limited to local record: Moline, Stone Park, Villa Park, Mt. Prospect

# Legal Q & A

By BETH ANNE JANICKI, Chief Legal Counsel, IML and
LORI ANN VERKUILEN, Paralegal, IML

This monthly column examines issues of general concern to municipal officials. It is not meant to provide legal advice and is not a substitute for consulting with your municipal attorney. As always, when confronted with a legal question, it is essential to contact your municipal attorney as certain unique circumstances may alter any conclusions reached herein.

*Q: What is "Home Rule" and is it the greatest thing since kissing?*

A: Many times when the League is contacted by an elected official with a question regarding municipal authority, the first question we must ask in response is: "are you a home rule unit?" Surprisingly, the answer we frequently receive is "I'm not sure" or "I don't really know." If you happen to be one of those officials who is not very clear on the concept of home rule, don't feel bad. Very few individuals fully understand the concept of home rule, which after much interpretation and construction by Illinois courts has become somewhat of an elusive concept. This article is intended to provide a brief overview of the home rule provisions contained in the Illinois Constitution of 1970 and what they have come to mean to Illinois municipalities. Specific questions regarding the extent of home rule authority should be directed to your municipal attorney.

Black's Law Dictionary defines "home rule" as:

> *State Constitutional provision or type of legislative action which results in apportioning power between state and local government by providing local cities and towns with a measure of self-government if such local government accepts terms of the state legislation.*[1]

From the above-cited definition, one can clearly identify what the goal of home rule is – "self-government." Home rule is a term which was given to a concept created to provide units of local government with an increased means of local control. The theory behind home rule was that some problems are inherently local in nature and, thus, are better dealt with at the local level since a "one-size fits all" state legislative solution couldn't possibly foresee problems which are uniquely local in nature. The creation of home rule was triggered by the increasing urbanization and complexity of society. As municipalities became larger and less rural, they desired governmental independence and the ability to deal with local problems at the local level. What home rule does is to reverse what is commonly known as "Dillon's Rule."[2] "Dillon's Rule" stands for the proposition that in order for a municipality to be able to act or legislate in a given area, it must point to statutory authority to act or its actions must be necessarily implied from a given statute. Thus, prior to home rule, municipalities had to point to a specific statute in order to act.

Today, forty states have some form of home rule. Thirty states have home rule granted by their State Constitution and the others have a form of statutory home rule authority. In Illinois, we have home rule pursuant to the Illinois Constitution of 1970.[3] Home rule in Illinois, however, was an uphill battle and took almost 50 years to achieve. At a 1969 IML Newly Elected Officials Seminar, a prominent municipal attorney accurately reflected upon the feelings present in the municipal community at the time of the Constitutional Convention wherein home rule was quite a hot topic:

> *"Someone asked me this afternoon, 'what is home rule?' I can well understand the amazement of a public official attending a League meeting for the first time. Every speaker says how wonderful home rule would be but no one will tell him what it is. It must, however, be the greatest thing since kissing."*
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> *'Home rule' is basically the power of municipalities to have the say-so over matters of local concern and importance. However, Illinois municipalities today are frustrated at every step of their orderly development by this lack of power. Every move they make must be governed by state laws which were drafted to fit 1260 municipalities and which fit any particular one worse than army fatigues. What we need -- and what the Constitutional convention can give us -- is the power to legislate in those areas where a decision made in the Village of Oak Park by the trustees of Oak Park will be better or more fitting than one made in Springfield.*
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> *The question asked this afternoon was whether home rule would mean 1200 independent kingdoms afloat in a sea of chaos. One might ask whether the current situation of 1200 municipalities bound hand and foot swaying plaintively in the direction of Springfield is any better. Luckily, however, we need not choose one or the other. Thirty-five (35) states now have home rule in one form or another. Home rule works.*
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> *Reading the municipal laws of this state causes one to wonder why we are willing to continue to put up with so many outdated provisions; why we refuse to mold our government to present-day needs and realities; why we fear change and refuse to experiment with our legislative tools as though to change would be to enslave us forever. This willingness to only patch, tinker, or evade legislative session after legislative session, is a sad commentary on our political initiative, our resourcefulness and our willingness to trust our democratic concept of government. In short, the archaic condition of our Constitution need not stampede us into home rule; yet, how sad for us all if we should pale at the challenge.*[4]

Opponents of home rule were mainly smaller communities who believed that it was merely a means of providing more power to the already powerful larger communities. Eventually, these opponents came to realize that all municipal needs could not be met by the General Assembly and