

Frequently Asked Questions

About Home Rule

What is Home Rule?

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.

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.

*Excerpt from: Illinois Municipal League, Municipal Review Magazine Legal Q & A
(Published June 1997) By Beth Anne Janicki and Lore Ann Verkuilen

What is the History of Home Rule in Illinois?

Home rule powers were granted to municipalities through the 1970 Illinois Constitution, rather than the legislature. One should begin with the 1970 constitution in describing Illinois' particular brand of home rule. The specific grant of home rule authority is found in Article VII, Section 6 of the constitution. The array of powers which are given the collective title "home rule" is provided in the following language: "Except as limited by this Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; to license; to tax; and to incur debt." The significant limitations of "this Section" itself are:

a) *Home rule units have constitutional limits on their taxing power.* No ad valorem property tax receipts may have a maturity period longer than forty years. Home rule units may not "license for revenue or impose taxes upon or measured by income or earnings or upon occupations."

b) *Home rule units have constitutional debt limits.* The General Assembly may, by a three-fifths vote, limit debt incurred which is payable through any funds other than ad valorem property tax receipts. When debt is secured through property taxes, the General Assembly may set limits and require referenda for any amounts over the following limits:

- (1) if its population is 500,000 or more, an aggregate of three percent [of the assessed value of its taxable property].
- (2) if its population is more than 25,000 and less than 500,000 an aggregate of one percent [of the assessed value of its taxable property].
- (3) if its population is 25,000 or less, an aggregate of one half percent [of the assessed value of its taxable property].

c) *Home rule units have constitutional limits on their power to punish.* No home rule unit may "define or provide for felonies," nor can any home rule unit define or provide for any Class A misdemeanors without specific statutory authority from the General Assembly.

In addition to the constitutional limits on home rule authority, legislative restrictions are also allowed. The General Assembly's authority to limit home rule legislatively is divided into two classes, each with a different voting threshold. The state legislature may preempt home rule authority by simple majority when it is willing to reserve for itself the exercise of a specific power. In these cases, the state must be willing to shoulder the burden in order to deny a particular power to home rule units. The second class involves situations in which the state does not wish to take control of the issue but still wishes to restrict the municipalities from doing so. In such cases, the standard Illinois supermajority vote, three-fifths, is required. Through either of these mechanisms, the state must be willing to put a certain degree of extra effort into attempts to restrict home rule powers.

*Excerpt from: The Journal of Regional Analysis and Policy Local Government Revenue Structure:
Does Home Rule Matter? By Tom Rooney

Do Home Rule Communities Levy More Property Taxes?

Does adopting home rule mean that property taxes will increase? The opponents of home rule – the optional system for empowering city and village governments to act – assert that property tax increases are the inevitable consequence when home rule is adopted.

An examination of the record *does not* support opponents' claims. Several scholarly studies have been made of the use of property taxes in home rule cities and villages during the 32 years since home rule first became available to Illinois cities and villages. This article summarizes the results of those studies. A study of 134 home rule and 104 comparable nonhome rule communities recently published in the *Journal of Public Economics* reported that property tax rates levied by non-home rule communities prior to the adoption of tax caps rose 61 per cent faster than rates levied in the home rule communities over the same period of time. Further, the study found that the rate of increase in property taxes in the two communities were comparable despite the fact home rule communities were not subject to tax cap limits.

An earlier study by Professor Robert Albritton reached similar conclusions. It found that population size and geographic location had a greater effect on the rate of increases in property tax levies than home rule status, and that, when controlled for these variables, the average property tax levy for home rule communities was the same as the average property tax levy for non-home rule communities during the first ten years of Illinois' home rule experience.

A just completed survey of Illinois home rule communities found that home rule communities are less dependent on property taxes for their revenues than are non-home rule communities. On average, according to annual surveys published by the Office of the Illinois Comptroller, cities and villages derive 25-30 percent of the revenues from property taxes. The 2002 survey of Illinois home rule communities found that, on average, home rule communities derived 10 to 20 percent of their revenue from property taxes, depending upon their population and geographic location.

To be sure, there are some – fewer than one in five home rule communities at last count – that do levy property taxes at rates higher than would be allowed by statute for non-home rule communities. But not even these

communities use all the taxing powers given to non-home rule communities by law. Rather, in these communities, elected officials have determined that local residents would rather pay higher property taxes than some of the other taxes, like utility taxes, which non-home rule cities can levy to finance the services they provide.

In short, there is no economic data that supports the contention that property taxes necessarily or even usually increase faster in home rule communities than in non-home rule communities.

Available evidence also suggests that voters in Illinois home rule communities do not believe that home rule has led to undesirable rates of taxation. Voters in all home rule communities have the option to stop home rule tax levies by voting home rule out. And, indeed, in the last 32 years, home rule opponents have succeeded 29 times in placing the elimination of home rule on the ballot in a home rule community. Most of the resulting election campaigns were fought on the issue of whether taxes, and especially property taxes, were being misused. Voters approved the retention of home rule powers in 25 of these 29 elections, or 83 per cent. In the aggregate, they voted by a margin of more than 3-2 to retain their community's home rule powers.

*Excerpt from: Illinois Municipal Review, April 2003, The Status of Illinois Home Rule, Part III: Do Home Rule Communities Levy More Property Taxes? By James M. Banovetz and Thomas W. Kelty

How Have Illinois Home Rule Municipalities Used Their Authority?

A recently completed survey (2002), sponsored jointly by the Illinois Municipal League and the Illinois City/County Management Association, offers new insight into the way home rule governments use their home rule powers. All Illinois' home rule municipalities were asked how they were using home rule powers.

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Use of Home Rule Taxing Power, 2002

Kind of Tax	No. of Municipalities Using It	% of Total
Additional retail sales taxes*	53	60.9
Hotel-motel tax	52	59.7
Real estate transfer tax	31	35.6
Sales tax on restaurant food & beverages	22	25.3
Gasoline tax	15	17.2
Amusement tax	12	13.8
Wheel tax	7	8.0
Retail sale of new motor vehicles tax	2	2.3
Use of Natural Gas	2	2.3
Other	4	4.6
Number reporting not using any home rule tax	14	16.1

* See the discussion of sales taxes for further explanation of this item.

Table SIX**The Regulatory Use of Home Rule Powers**

Question	# Responses	%	Question	# Responses	%
Do you use home rule to:					
1. Develop regulations on:			2. Engage in licensing or franchising:		
Curfew	18	20	Liquor sales	15	17
Environment	11	13	Towing truck operators	13	15
Liquor sales or use	35	40	Cable TV	16	18
Zoning	42	48	Utilities	13	15
Other juvenile concerns	13	15	Mobile Homes	9	10
Land use planning/subdivision control	34	39	Nursing homes/ retirement communities	7	8

*Excerpt from: Policy Profiles Vol. 2, No. 3 August 2002. Center for Governmental Studies, Northern Illinois University.
Issue: The Uses of Home Rule with Special Emphasis of Taxation.

How Do Voters Feel About Home Rule?**Voter attitudes toward home rule**

Voters' attitudes toward home rule appear to have become more positive in recent years. In home rule's early years, 1971-75, referenda approving home rule outnumbered those disapproving by a 3-1 margin. That margin slipped to less than 1.5 to 1 in the 1976-85 period, then fell further to 1-1.3 against in 1986-99 period. But since the turn of the century, voter approval has turned positive, if just barely. There were 13 referenda on home rule in the first three years of the 21st century; home rule was approved in seven of these elections. But this record combines two very different kinds of elections: adoption referenda and retention referenda.

Adoption referenda

There have been 158 referenda since 1971 in which municipal voters have had the opportunity to adopt home rule. They did so in 77 of these elections, or 49 per cent. That means voters turned down home rule in 81 elections. In five communities, voters rejected home rule in more than one election. In five others, voters rejected home rule when it was first put on the ballot, then adopted home rule in a later election. In Lincolnwood and Oakbrook Terrace, voters rejected home rule twice before finally adopting it in a third election. From another perspective, of the 153 communities which have had referenda to adopt home rule, 77, or 50 percent, ultimately did so. Of these 77, 75 communities, or 97 per cent, still operate under home rule powers. The two who do not are National City, which was dissolved as a municipal corporation when its last residents moved away, and Lisle, which later abandoned home rule by referendum. In addition to Lisle, three other communities which gained home rule by referendum also had a subsequent referendum on the retention of home rule powers. In all of these cases, Berkeley, Lincolnshire and Rolling Meadows, voters opted to retain home rule.

Home rule retention elections

There have been 31 elections in which voters were asked whether or not they wished to keep the home rule powers already provided to their community. Voters chose in 27 of these elections, or 87 per cent, to retain their home rule powers. Retention elections occur for either of two reasons: (1) voters dissatisfied with their community's use of home rule powers may petition the court for a retention election — this has happened 25 times; or (2) a community which gains home rule powers by population is required by law to hold a retention election if its population later falls under the 25,000 ceiling — this has happened six times. Of the 25 retention elections held in response to voter petitions, home rule was retained in 21, or 84 per cent of the elections. Home rule was retained in all six of the retention elections held because a community's population had fallen under 25,000. In the aggregate, voters in retention elections chose, by a margin of greater than 2-1, to retain home rule powers.

Is home rule an issue with voters?

In a survey of all home rule communities undertaken jointly by the Illinois Municipal League and the Illinois City-County Management Association in 2001-02, communities were asked whether: (1) there had been a recent effort to submit a petition to call for a retention election to abandon home rule, and (2) there had been any periodic, significant criticism or attacks on home rule in the community. Of the 83 communities responding to the survey, 91 per cent answered "no" to both questions. These findings suggest that the use of home rule powers is not generating significant opposition among voters in communities which already have home rule. This conclusion also finds support among the referenda record on home rule. Understandably, and appropriately, the mixed results of home rule adoption referenda indicate that voters considering the adoption of home rule are very skeptical about giving a broad grant of power, including tax power, to their municipal government. On the other hand, the support shown for home rule in retention elections indicates that a substantial majority of voters in home rule communities trust their local officials with home rule powers. Indeed, in one of the most recent retention elections, held at the request of a voters' petition in Rolling Meadows in 1999, voters supported home rule by a margin of more than 9-1.

*Excerpted from: Illinois Municipal Review, December 2002, The Status of Illinois Home Rule, Part I: Home Rule Cities And The Voters, By James M. Banovetz