The Home Rule Concept........................................... 1
Who Receives Home Rule?..................................... 2
Home Rule Powers................................................. 6
Limitations on Home Rule Powers.......................... 8
Is Home Rule Successful?...................................... 10
County Home Rule................................................. 13
Appendix: Constitution of the State of Illinois, 1970,
     Article VII — Local Government......................... 15

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HOME RULE IN ILLINOIS

Local governments in Illinois traditionally have had only those powers specifically given to them by state legislatures — a doctrine commonly known as Dillon’s Rule. Thus before an Illinois local government can collect garbage, establish a park, sweep the streets, or levy taxes, it must have specific permission to do so from the state legislature.

Historically this has meant that each time a new problem requires action a municipality must approach the legislature for permission to take action to solve its problem. The large number of municipalities and their growing problems have meant that the state legislature spends much time authorizing local governments to handle local problems.

Some critics of local government have wanted to shift the responsibility for solving urban problems to the state or the federal government because of their greater financial resources. Another proposed solution has been to alter the relationship between the state government and the cities, giving cities more power over their local governments. They would no longer have to ask the state legislature for the power to act and would have all the powers specifically withheld from them by the state. This broad grant of powers is called “home rule.”

The 1970 Illinois constitution created a class of home rule cities and counties that do not have to receive legislative permission to act in local matters. The broadest statement of the new authority of these local governments is that they have all the powers to handle local problems which could have been granted by the state, except those specifically denied by the Illinois constitution and those denied by the U.S. constitutional provisions that require equal protection and due process in governmental actions.

The Home Rule Concept

Home rule is not a new idea. It was first adopted in Missouri in 1875, and more than forty states now have some form of home rule.

In Illinois the legislature and the courts had previously withheld broad powers of self-government from local governments but, under the 1970 constitution, Illinois’s home rule powers are among the most generous in the nation. These include broad powers to tax and supply needed services. The framers decided how much power was to be retained by the legislature over home rule governments and how conflicts between the state and local governments were to be resolved. In the
process, the constitutional convention produced home rule provisions unlike those of any other state.

In Illinois home rule is automatic for some municipalities. Other municipalities and counties must have referendum approval before acquiring home rule powers. In most other states communities must frame a charter detailing their proposed actions and the governmental structure they will establish. The charter is written within limits provided by state law or the state constitution. The charter usually must be approved by the state or the citizens of the community, or both, before any home rule actions can be undertaken. Illinois requires no such blueprint. Home rule is largely allowed to proceed by the actions of communities until conflict arises over whether an action is within the scope of the government and affairs of the local government.

Who Receives Home Rule?

Municipalities

Every Illinois municipality with more than 25,000 population has home rule powers. These powers are granted automatically. The municipality need not hold any kind of referendum nor must it make any changes in its governmental form. By January, 1977, there were 78 municipalities in Illinois with home rule powers by virtue of having populations of 25,000 or more. These home rule units contain more than 70 percent of Illinois's population and, as Figure 1 shows, many of them are in the Chicago metropolitan area.

Municipalities under 25,000 population may gain home rule powers by holding a referendum asking whether the citizens desire the additional powers. Twenty-two communities had gained home rule powers in this way by the end of 1976 (see Table 1). Six of these communities were outside of the multi-county Chicago metropolitan area. At least nine other communities that did not have 25,000 population at the time of the last official census had special censuses taken which established that they had grown to 25,000 population and could automatically become home rule units. If a community's population drops below 25,000, it still retains its home rule status.

Home rule units may also give up that status by having a referendum to discontinue home rule powers. In the fall of 1976, the first such referenda were held in Danville (Vermilion County), Aurora (Kane), and Park Ridge (Cook). Voters in all three chose to retain home rule.
Figure 1. Illinois municipalities with home rule powers, February, 1977.
### Table 1. Illinois Municipalities Adopting Home Rule by Referendum

<table>
<thead>
<tr>
<th>Municipality</th>
<th>County</th>
<th>1970 Population</th>
<th>Vote (Yes-No)</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>McCook</td>
<td>Cook</td>
<td>366</td>
<td>165–17</td>
<td>November, 1971</td>
</tr>
<tr>
<td>Bedford Park</td>
<td>Cook</td>
<td>583</td>
<td>254–36</td>
<td>December, 1971</td>
</tr>
<tr>
<td>Rosemont</td>
<td>Cook</td>
<td>4,825</td>
<td>229–72</td>
<td>January, 1972</td>
</tr>
<tr>
<td>Countryside</td>
<td>Cook</td>
<td>2,888</td>
<td>598–317</td>
<td>November, 1972</td>
</tr>
<tr>
<td>Stone Park</td>
<td>Cook</td>
<td>4,451</td>
<td>206–18</td>
<td>December, 1972</td>
</tr>
<tr>
<td>Mound City</td>
<td>Pulaski</td>
<td>1,177</td>
<td>130–56</td>
<td>April, 1973</td>
</tr>
<tr>
<td>Norridge</td>
<td>Cook</td>
<td>18,043</td>
<td>2,387–710</td>
<td>April, 1973</td>
</tr>
<tr>
<td>Park City</td>
<td>Lake</td>
<td>2,906</td>
<td>243–33</td>
<td>September, 1973</td>
</tr>
<tr>
<td>Bryant</td>
<td>Fulton</td>
<td>325</td>
<td>41–1</td>
<td>January, 1974</td>
</tr>
<tr>
<td>Deerfield</td>
<td>Cook–Lake</td>
<td>18,876</td>
<td>1,056–872</td>
<td>April, 1975</td>
</tr>
<tr>
<td>Lincolnshire</td>
<td>Lake</td>
<td>2,531</td>
<td>871–229</td>
<td>April, 1975</td>
</tr>
<tr>
<td>Lisle</td>
<td>DuPage</td>
<td>6,921</td>
<td>305–133</td>
<td>April, 1975</td>
</tr>
<tr>
<td>Park Forest South</td>
<td>Cook–Will</td>
<td>3,232</td>
<td>674–434</td>
<td>April, 1975</td>
</tr>
<tr>
<td>South Barrington</td>
<td>Cook</td>
<td>348</td>
<td>101–63</td>
<td>April, 1975</td>
</tr>
<tr>
<td>Standard</td>
<td>Putnam</td>
<td>290</td>
<td>97–4</td>
<td>April, 1975</td>
</tr>
<tr>
<td>Stickney</td>
<td>Cook</td>
<td>6,601</td>
<td>1,432–641</td>
<td>November, 1974</td>
</tr>
<tr>
<td>Watseka</td>
<td>Iroquois</td>
<td>5,294</td>
<td>511–412</td>
<td>April, 1975</td>
</tr>
<tr>
<td>Woodridge</td>
<td>DuPage</td>
<td>13,316</td>
<td>943–317</td>
<td>April, 1975</td>
</tr>
<tr>
<td>Saugat</td>
<td>St. Clair</td>
<td>220</td>
<td>48–0</td>
<td>October, 1976</td>
</tr>
<tr>
<td>Golf</td>
<td>Cook</td>
<td>474</td>
<td>202–30</td>
<td>November, 1976</td>
</tr>
<tr>
<td>Flora</td>
<td>Clay</td>
<td>5,283</td>
<td>181–99</td>
<td>December, 1975</td>
</tr>
<tr>
<td>Calumet Park</td>
<td>Cook</td>
<td>10,069</td>
<td>1,018–719</td>
<td>March, 1976</td>
</tr>
</tbody>
</table>

Sources: Institute of Government and Public Affairs, University of Illinois at Urbana-Champaign; State of Illinois Department of Local Government Affairs, Springfield; Illinois Municipal League, Springfield; and various municipal clerks.

### Counties

Counties may also gain home rule powers but, to do so, a county must change its form of government. The present structure of county government makes no distinction between legislative and executive functions. (The county governing board performs the functions of both the mayor and city council in a municipality.) To gain county home rule these functions must be separated.

A home rule county must have an elected chief executive officer, and state law requires a countywide referendum to decide the question. Any county may have a county board chairman elected by all voters in the county but this is inadequate for establishing home rule. The elected officer must have broad powers like those of a city manager. (The Local Government Committee of the Sixth Constitutional Convention thought
an elected chief executive would be more compatible with the "democratic ideals" of Illinois local government than an appointed city manager.)

The procedures for acquiring county home rule were established by the General Assembly to implement the constitutional provision [Art. VII, Sec. 7(a)] which says, "... a county which has a chief executive officer elected by the people ..." becomes a home rule unit.

The referendum on home rule results in both acquisition of home rule powers and a change in the structure of county government. The ballot reads: Shall the County of Fulton become a Home Rule County and establish the County Executive form of government?

No county has yet adopted home rule by referendum, although eleven home rule referenda have been held. Between 60 and 90 percent of those voting rejected home rule in each county (see Table 2). The defeats seem to have been based on a combination of fears, the chief one being that home rule would lead to higher government costs and higher taxes. Others included the fear that the executive officer would become a "czar"; fear that home rule would be a first step in consolidation of local governments; and fear of the amount of power a home rule county might have over such things as licensing of lawyers, doctors, insurance brokers, and so on.

Table 2. Illinois County Home Rule Referenda

<table>
<thead>
<tr>
<th>County</th>
<th>1970 population</th>
<th>Registered voters</th>
<th>Number voting on home rule</th>
<th>Voting Yes (no.) (%)</th>
<th>Voting No (no.) (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>March, 1972</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DeKalb</td>
<td>71,654</td>
<td>33,084</td>
<td>13,044</td>
<td>4,161 (32)</td>
<td>8,883 (68)</td>
</tr>
<tr>
<td>DuPage</td>
<td>491,882</td>
<td>232,437</td>
<td>83,833</td>
<td>23,487 (28)</td>
<td>60,346 (72)</td>
</tr>
<tr>
<td>Fulton</td>
<td>41,890</td>
<td>26,404</td>
<td>9,559</td>
<td>1,617 (17)</td>
<td>7,942 (73)</td>
</tr>
<tr>
<td>Kane</td>
<td>251,005</td>
<td>104,190</td>
<td>32,611</td>
<td>8,459 (26)</td>
<td>24,152 (74)</td>
</tr>
<tr>
<td>Lake</td>
<td>382,638</td>
<td>165,738</td>
<td>48,063</td>
<td>14,977 (31)</td>
<td>33,086 (69)</td>
</tr>
<tr>
<td>Lee</td>
<td>37,947</td>
<td>18,694</td>
<td>8,183</td>
<td>2,013 (25)</td>
<td>6,170 (75)</td>
</tr>
<tr>
<td>Peoria</td>
<td>195,318</td>
<td>84,389</td>
<td>37,777</td>
<td>15,027 (40)</td>
<td>22,750 (60)</td>
</tr>
<tr>
<td>St. Clair</td>
<td>285,176</td>
<td>109,920</td>
<td>27,668</td>
<td>2,609 (9)</td>
<td>25,059 (91)</td>
</tr>
<tr>
<td>Winnebago</td>
<td>246,623</td>
<td>109,598</td>
<td>36,324</td>
<td>10,149 (28)</td>
<td>26,175 (72)</td>
</tr>
<tr>
<td>March, 1976</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lake</td>
<td>382,638</td>
<td>183,621</td>
<td>64,688</td>
<td>13,612 (21)</td>
<td>51,076 (79)</td>
</tr>
<tr>
<td>Winnebago</td>
<td>246,623</td>
<td>117,714</td>
<td>48,644</td>
<td>6,984 (14)</td>
<td>41,660 (86)</td>
</tr>
</tbody>
</table>

Home Rule Powers

What powers do home rule governments have? The Illinois Constitution provides that "... 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." [Art. VI, Sec. 6(a) 1970 Constitution]

This statement of broad general powers potentially takes the place of many pages of legislation in the Illinois Revised Statutes. A home rule unit may now devise its own laws within the scope of its local government and affairs. Considerable local action has been taken that substitutes local law for state law. The variety of innovative local solutions to local matters has been attributed by some observers to the improved psychological climate for local action created by home rule.

Taxing and Borrowing Power

The power to tax has not been used with the abandon some of the convention delegates feared. In fact, one of the first home rule actions was a Springfield City Council ordinance restricting tax rate ceilings to those in effect before home rule. New taxes not previously available to cities have been enacted by home rule cities, including parking, local cigarette, and hotel occupancy taxes. Local procedures for actual levy of taxes have been changed, and some communities now levy property taxes in excess of the established statutory maximums.

A number of municipalities have issued general obligation bonds without referendum approval, something they were previously unable to do. One community authorized payment of an interest rate above the statutory rate limit on some library bonds.

Licensing and Regulation

Local licensing powers have been used where there once were gaps in the powers available to municipalities. One home rule unit has licensed food-delivery vehicles to ensure sanitary conditions. The most frequent uses of home rule authority have been in licensing and regulation.

Regulation of the use of land in ways not provided for under state law has been an area where many home rule units have acted. Special zoning procedures have been established, and provisions have been made for compulsory land donation by subdivision developers. Some communities are limiting the construction of new service stations and are licensing mobile home parks and apartment buildings.
Environmental control ordinances have been passed by a number of municipalities regulating location of landfills, sewage treatment facilities, and other activities. Since the state has extensive environmental protection regulations, local environmental control actions have raised a number of questions about concurrent state and local action. Although the legislature has not yet taken action to declare the state environmental protection act a minimum standard for local action, the courts have declared specific areas of environmental protection beyond the scope of local affairs.

Liquor control is an area where state and local concurrent action has been allowed by the courts. A number of municipalities have raised the drinking age to 21 where state law provides that 19-year-olds may drink beer and wine. The courts have said that the state liquor laws provide for a local interest in liquor control.

Change in Government Structure

The Illinois Constitution also allows home rule governments flexibility in changing their governmental organization and procedures. "A home rule unit shall have the power subject to approval by referendum to adopt, alter or repeal a form of government provided by law. A home rule municipality shall have the power to provide for its officers, their manner of selection and terms of office only as approved by referendum or otherwise authorized by law." [Art. VII, Sec. 6(f)] (The power to alter is the new power of these three because the municipal code already provided alternative forms of government for municipalities prior to the passage of the 1970 constitution.)

Although some changes can be made without referendum, broad changes in governmental structure must be approved by the voters. One home rule government has voted to abolish a city attorney, required by state law, and established instead a municipal law department. One municipality has voted to transfer its recreation programs to the local park district and another has named the members of the park district board to be the city recreation board.

One community has merged its police and fire department and another has created the post of chief administrative officer in a mayor-council city. The powers of fire and police commissioners have been changed, and an Illinois Supreme Court case said that a change of retirement age for firemen and policemen did not conflict with the constitutional provision prohibiting impairment of pension rights of employees.
Intergovernmental Relations

Local governments have used the expanded intergovernmental cooperation powers provided by the constitution in combination with home rule authority to provide joint municipal bus service instead of creating a separate local government transit district, and a municipality has assumed the functions of a drainage district.

The question of what is a local government’s legitimate business has been raised when home rule governments have tried to regulate the actions of other governments within their boundaries. Can a city require a permit before the sanitary district can construct sewage treatment facilities within its boundaries? No, according to the courts. Nor can a city regulate highway construction by other governments within its boundaries. The actions of other governments within a home rule unit’s boundaries are apparently outside the scope of its government and affairs.

Limitations on Home Rule Powers

Various limits are placed on the home rule powers of local governments by the constitution, and they are designed to create a balance between state and local power.

Illinois tried to avoid a situation in which the courts would decide what was a state matter and what was a local matter. Specific procedures were established by which the legislature could specify legitimate areas of state action and situations where state and local action in the same policy area would be acceptable.

Financial Powers

Some financial powers are available to home rule governments only if the legislature specifically grants them. No income tax or occupation tax may be levied without legislative permission. License fees may not be used to raise revenue without legislative authorization.

The power to tax may be limited or denied by law if it is passed by a three-fifths vote of both houses of the legislature.

Home rule governments are prohibited from incurring debt that is due more than 40 years from the date it is incurred, if property taxes are to be used to pay the debt. Even if the debt is payable within 40 years, the amount of debt payable from property taxes may be limited by the legislature. For municipalities, these limits may only be imposed above a certain amount of “free debt” which is expressed as a percentage of the assessed valuation of a municipality. Home rule counties have no “free
debt" protection. The General Assembly may, however, limit the amount of any kind of debt home rule counties may incur. To limit the amount of debt of home rule municipalities not payable from property taxes, the General Assembly must again muster a 60 percent (three-fifths) majority of both houses. (Nonproperty tax debt includes bonds to be repaid from the revenue produced from projects such as airports, swimming pools, skating rinks, and so on.)

**Concurrent State and Local Exercise**

If the state and a local government are both performing a function, such as pollution control, the legislature may pass a law limiting the actions of the local government in this area. This does not mean that the local government is prohibited from regulating the area. For example, the state may declare its policy to be a minimum standard for clean water and allow home rule units to make stricter rules if they desire. The state has declared the open meetings act to be a minimum standard for local action.

**State's Power To Restrict**

If the state is not performing a function but wants to regulate local performance of that function or to prohibit local governments from performing the function, it may do so. However it is more difficult to do this than to pass an ordinary law because 60 percent of the members of each house of the legislature must approve such a law. It is difficult to obtain a majority of this size in the legislature. The legislature failed in attempts to deny the power to levy a cigarette tax to local governments, and to prevent local changes in the structure and regulations of police and fire commissions.

**Exclusive State Exercise**

The legislature may also provide for the state the exclusive exercise of a power otherwise available to home rule units. This may be done by a majority vote of the legislature. Such limits on home rule units could prevent a confusing situation in which, for example, a power company could be subject to twelve different sets of regulations within a single large county. The state has reserved the power to license a number of occupations, including doctors, dentists, and public accountants.

**Conflicts Between Home Rule Units**

Because home rule municipalities might be located in a home rule county, a procedure was developed to avoid conflicts. The constitution
provides that where a home rule county ordinance conflicts with an ordinance of a municipality the municipal ordinance prevails within the municipality's territory. This, of course, does not prevent all controversy, and the first court case testing this provision has created confusion by saying both a municipality and a county may levy a tax on new car sales within the municipality.

Is Home Rule Successful?

Has home rule been effective in Illinois? Has it solved the problems it was intended to solve? Would a municipality or county not now a home rule government want to become one?

Financial Problems

Home rule has given local governments financial flexibility they did not have before. They can now levy a long list of new nonproperty taxes (see Table 3). They may now issue certain amounts of bonds for capital improvements without referendum approval, and they may arrange for longer terms than previously for lease or installment purchase of property.

While the available new taxes have allowed municipalities to raise additional revenues, many of these taxes do not produce sufficient revenue to do more than forestall property tax increases. Long-term increases in the value of property in a municipality and expansion of the tax base may be just as necessary to avoid property tax increases in the long run. For Chicago, the cigarette, parking, and other new taxes that have been levied total only about 4 percent of the municipal budget.

However, the new taxes are basically on consumption — not income or property ownership — so they do not always tax the same individuals as property taxes. A municipality such as Rosemont, which is near O'Hare Airport, levies a hotel tax of 50 cents per room per night on the 25,000 people who stay within its boundaries each day. Rosemont's population is only 4,800. Home rule gives Rosemont the opportunity to tax people who use its streets and its fire and police services and who, before home rule, paid nothing for these services.

The limits on taxation and revenue imposed by the constitution withhold from home rule units the potentially most lucrative local taxes. Home rule units are forbidden to levy occupation and income taxes without prior legislative approval. The income tax is a major source of state revenue (34.5 percent of total tax collections in fiscal 1977), and prohibiting its use by local governments was in part meant to protect the state government's revenue. Some states, New York for example, do
allow large cities to levy income taxes. Taxes on income and occupation tax people where they work rather than where they live, causing them to pay some tax toward the services they use while working (streets, water, fire protection, sewage, traffic control, police protection, and so on). Income and occupation taxes are generally more lucrative than are the consumption taxes that are available to home rule units. Income-based taxes do attack a fundamental problem of major cities — that is, the dwindling number of middle-class taxpayers living in the city.

The state also has considerable power to place ceilings on taxes and debt. One authority says of the revenue powers of home rule municipalities, "...what appears at first to be a complete departure from the traditional requirement that revenue powers be specifically delegated by the legislature to local governmental bodies proves to be only a limited departure."

Table 3. Optional Home Rule Taxes for Local Governments in Illinois*

<table>
<thead>
<tr>
<th>Chicago Home Rule Commission</th>
<th>Urbana Commission on Alternative Revenue Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wide general sales tax</td>
<td>Motor vehicle wheel tax</td>
</tr>
<tr>
<td>Sales tax on services</td>
<td>General consumer sales tax</td>
</tr>
<tr>
<td>Purchase tax</td>
<td>Selective consumer sales tax</td>
</tr>
<tr>
<td>Selective sales taxes</td>
<td>Cigarette tax</td>
</tr>
<tr>
<td>Cigarette tax</td>
<td>Alcohol tax</td>
</tr>
<tr>
<td>Tax on alcoholic liquors</td>
<td>Gasoline tax</td>
</tr>
<tr>
<td>Tax on gasoline</td>
<td>Consumer tax on rental space</td>
</tr>
<tr>
<td>Use taxes</td>
<td>Amusement tax</td>
</tr>
<tr>
<td>Tax on parking</td>
<td>Parking tax</td>
</tr>
<tr>
<td>User taxes and charges</td>
<td></td>
</tr>
<tr>
<td>Motor vehicle wheel tax</td>
<td></td>
</tr>
<tr>
<td>Airline boarding tax</td>
<td></td>
</tr>
<tr>
<td>Business tax</td>
<td></td>
</tr>
<tr>
<td>Value added tax</td>
<td></td>
</tr>
<tr>
<td>Taxation on expenditures</td>
<td></td>
</tr>
<tr>
<td>Payroll taxes</td>
<td></td>
</tr>
<tr>
<td>Commodity transfer taxes</td>
<td></td>
</tr>
<tr>
<td>Transfer taxes on stock</td>
<td></td>
</tr>
<tr>
<td>Licenses and permits</td>
<td></td>
</tr>
<tr>
<td>Forfeits and penalties</td>
<td></td>
</tr>
</tbody>
</table>

* Taxes available to home rule governments. Not all of these have been enacted; not all could be enacted at once for economic and political reasons. The lists of taxes were drawn up by commissions reporting to Chicago and Urbana municipal governments.

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Those who feared that home rule units would be reckless in raising taxes believed these controls were a way to ensure responsibility. On the other hand, those who wanted to be certain that local governments had adequate powers to meet their problems feared the limits were too great. Those who took the latter view believe that large cities such as Chicago will soon have to approach the legislature again to ask for new revenues. Already some municipalities feel there must be increases in state revenue sharing of income and other tax revenues if they are to get along without large property tax increases. On the other hand, there is a fear that the new consumer taxes may drive people to patronize towns that do not levy these taxes, and that the absence of fixed property tax and debt ceilings will lead people to live in other, non-home rule, communities because of runaway property taxes.

**Fragmentation of Powers**

Has home rule reduced the number of local governments in Illinois and the resulting fragmentation of local power?

The constitution makes no direct attempt to reduce the existing number of local governments. Instead it offers several tools that are designed to assist local governments in forestalling the creation of new units of local government. These are (1) special service area taxation, (2) special assessment powers for counties, and (3) a broad authority for local governments to act cooperatively. (Prior to this, specific forms of intergovernmental cooperation had to be authorized by statute. Now the only limits are those where the legislature prohibits such cooperation.) These tools are made available to all local governments, home rule and non-home rule. In addition, the removal of rigid constitutional debt limits is expected to slow the creation of special district governments. Under the debt ceiling of 5 percent of assessed valuation of property in the 1870 constitution, often the only way to ensure adequate funds for a new service was to create a special district that would have its own 5 percent debt ceiling separate from that of the municipality whose boundaries it shared. Home rule units add to these tools the flexibility of their broader taxing powers, their more liberal powers to incur debt, and their generally broader powers to regulate and provide services.

Many of the fundamental problems facing local governments do not match the boundaries of existing local governments. Even with home rule powers, the size and resources of individual municipalities prevent ade-

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quate solution of some problems, such as sewage treatment, pollution con-
trol, flood control, land use planning, solid waste disposal, health care, and so on. These problems require solution on a broader scale than the individual municipality.

Bloomingtom and Normal, adjoining home rule units, found that an
effective public transportation system required a cooperative effort. They
used their home rule powers to accomplish this without creating a sepa-
rate mass transit district.

Even within small counties, a countywide solution to problems such
as water supply and solid waste disposal is probably needed. The Illinois
experience with public health districts and regional planning indicates
that in some cases a multicounty approach may be the most feasible.

**Why Elect Home Rule Powers?**

What does home rule offer to municipalities of less than 25,000
population?

Twenty-two small municipalities found home rule attractive enough
to adopt it by referendum, although the reasons for their action are di-
verse. At first some small Cook County communities felt that home rule
powers would allow them to avoid certain Cook County taxes. Court in-
terpretations of home rule indicate that it does not provide protection
against county taxation. The home rule powers were also seen as provid-
ing flexibility and freedom from statutory restrictions that were needed to
solve the unique problems of these municipalities.

Two of these units are highly industrialized villages which desired
flexibility in handling pollution and environmental protection. One of
these (McCook) has passed an environmental control ordinance that is
more stringent in many respects than the state Environmental Control Act.

One community is largely a commercial center and wanted additional
local control over commercial activity. Rosemont, a village of 4,800, ad-
joins O'Hare Airport and is the only community that has used its home
rule powers to enact a tax not previously authorized by state statute.

A community outside of Cook County that adopted home rule is
Mound City in Pulaski County. Home rule was adopted primarily to
enhance the marketability of bonds for industrial development and to
assist in financing revitalization of Civil War sites to promote tourism.

**County Home Rule**

The great unexplored territory of Illinois home rule is county home
rule. It is impossible really to determine its success or failure.
Cook County, as already mentioned, was specifically given home rule by the 1970 constitution and is the only home rule county. Its size and governmental structure have always been unique in Illinois.

Cook County has used its home rule powers extensively. It has established a tax on automobile sales in the county, issued bonds without a referendum, and, without referendum, changed its form of government by abolishing an elected comptroller and establishing an appointed one. A wheel tax has been levied in unincorporated areas, the proceeds to be used for police protection in those areas.

The county board established a study commission to consider additional uses of the powers made available by home rule. The report indicates that the intergovernmental cooperation powers and the special service area taxation powers of all local governments are considered important to effective use of home rule in Cook County. The commission recommended the use of intergovernmental cooperation and special service area taxation to facilitate a decrease in the number of special district governments in Cook County. While emphasizing that it was not supporting consolidation of the county and other local governments in a metropolitan government, the commission talked about the creation of some areawide services through intergovernmental cooperation agreements. A regional environment protection agency was proposed as well as regional public health services.

The commission recommended that the county board go to a system of single-member districts rather than retain the present system of a multi-member Chicago district and a multi-member district for the rest of Cook County. The 1970 constitution allows Cook County to do this initially by county law (ordinance), but any subsequent changes will require referendum approval. The commission proposed that the recorder of deeds be made an appointed rather than an elected official. If this were done, the county would still have six of the same elected offices that most downstate and non-home rule counties have and a few additional ones specific to Cook County, such as an elected property tax assessor and a four-member board of review.

The main revenue recommendation was that the county levy a broad-based sales tax rather than the narrower retailers’ and wholesalers’ occupation tax which the state administers and collects for itself, counties, and incorporated municipalities. The commission had considered recommending that the county seek the state legislature’s permission, as required by the constitution, to levy an income tax. It recommended that the county not seek the needed authority at this time.

The actions of Cook County may not disclose the basic promise of county home rule. Because of the larger territory of counties compared
with municipalities there has been a growing interest nationwide in the potential role of county government in solving problems that extend beyond the boundaries of individual municipalities. The home rule study commission suggested steps in this direction. Some of its members felt that the goal should be a two-tier service delivery system of county/area-wide services and municipal/neighborhood services.

In recommending home rule for counties the Local Government Committee of the Constitutional Convention said:

As with home rule for municipalities, the primary thrust for county home rule has grown out of the increasing urbanization of our population.... The limited functions and powers of county government have become inadequate.

Although counties are the natural unit of government to supply basic services in unincorporated suburban areas, they lack the power to do so...the strengthening of county government is one means to help stem the growth of unnecessary local governments and perhaps to eliminate some that already exist.

Appendix

CONSTITUTION OF THE STATE OF ILLINOIS, 1970
ARTICLE VII — LOCAL GOVERNMENT

Section 6. Powers of Home Rule Units

(a) A County which has a chief executive officer elected by the electors of the county and any municipality which has a population of more than 25,000 are home rule units. Other municipalities may elect by referendum to become home rule units. 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.

(b) A home rule unit by referendum may elect not to be a home rule unit.

(c) If a home rule county ordinance conflicts with an ordinance of a municipality, the municipal ordinance shall prevail within its jurisdiction.

(d) A home rule unit does not have the power (1) to incur debt payable from ad valorem property tax receipts maturing more than 40 years from the time it is incurred or (2) to define and provide for the punishment of a felony.

(e) A home rule unit shall have only the power that the General Assembly may provide by law (1) to punish by imprisonment for more than six months or (2) to license for revenue or impose taxes upon or measured by income or earnings or upon occupations.

(f) A home rule unit shall have the power subject to approval by referendum to adopt, alter or repeal a form of government provided by law, except that the form of government of Cook County shall be subject to the provisions of Section 3 of this Article. A home rule municipality shall have the power to provide for its officers, their manner of selection and terms of office only as approved by referendum or as otherwise authorized by law. A home rule county shall have the power to provide for its officers, their manner of selection and terms of office in the manner set forth in Section 4 of this Article.
(g) The General Assembly by a law approved by the vote of three-fifths of the members elected to each house may deny or limit the power to tax and any other power or function of a home rule unit not exercised or performed by the State other than a power or function specified in subsection (1) of this section.

(h) The General Assembly may provide specifically by law for the exclusive exercise by the State of any power or function of a home rule unit other than a taxing power or a power or function specified in subsection (1) of this section.

(i) Home rule units may exercise and perform concurrently with the State any power or function of a home rule unit to the extent that the General Assembly by law does not specifically limit the concurrent exercise or specifically declare the State’s exercise to be exclusive.

(j) The General Assembly may limit by law the amount of debt which home rule counties may incur and may limit by law approved by three-fifths of the members elected to each house the amount of debt, other than debt payable from ad valorem property tax receipts, which home rule municipalities may incur.

(k) The General Assembly may limit by law the amount and require referendum approval of debt to be incurred by home rule municipalities, payable from ad valorem property tax receipts, only in excess of the following percentages of the assessed value of its taxable property: (1) if its population is 500,000 or more, an aggregate of three percent; (2) if its population is more than 25,000 and less than 500,000, an aggregate of one percent; and (3) if its population is 25,000 or less, an aggregate of one-half percent. Indebtedness which is outstanding on the effective date of this Constitution or which is thereafter approved by referendum or assumed from another unit of local government shall not be included in the foregoing percentage amounts.

(l) The General Assembly may not deny or limit the power of home rule units (1) to make local improvements by special assessment and to exercise this power jointly with other counties and municipalities, and other classes of units of local government having that power on the effective date of this Constitution unless that power is subsequently denied by law to any such other units of local government or (2) to levy or impose additional taxes upon areas within their boundaries in the manner provided by law for the provision of special services to those areas and for the payment of debt incurred in order to provide those special services.

(m) Powers and functions of home rule units shall be construed liberally.

Section 10. Intergovernmental Cooperation

(a) Units of local government and school districts may contract or otherwise associate among themselves, with the State, with other states and their units of local government and school districts, and with the United States to obtain or share services and to exercise, combine, or transfer any power or function, in any manner not prohibited by law or by ordinance. Units of local government and school districts may contract and otherwise associate with individuals, associations, and corporations in any manner not prohibited by law or by ordinance. Participating units of government may use their credit, revenues, and other resources to pay costs and to service debt related to intergovernmental activities.

(b) Officers and employees of units of local government and school districts may participate in intergovernmental activities authorized by their units of government without relinquishing their offices or positions.

(c) The State shall encourage intergovernmental cooperation and use its technical and financial resources to assist intergovernmental activities.