

RESOURCES ON LOCAL GOVERNMENT AUTHORITY

The Mid-America Regional Council, along with local governments and others in the Kansas City area support the ability of local governments, school districts and other special districts governed by local elected officials to make decisions for their communities, particularly tax and revenue decisions, to ensure efficient, effective and quality operations, infrastructure and other investments. This paper summarizes the basis of local government authority and resources to assess recent trends toward state pre-emption of this important local capacity.

HOME RULE

“The Principles of Home Rule for the Twenty-First Century are organized around four interrelated propositions: home rule should reinforce the breadth of authority local governments need to solve the range of challenges they face; home rule should advance the critical value of local fiscal authority; home rule should ensure that states have sufficiently strong reason to displace local authority; and home rule should respect the central importance of local democracy.” NLC 2020, p. 24

“Home rule” is defined as limited autonomy or self-government granted by a central or regional government to its dependent political units. It has been a feature of state and municipal government in the United States since 1875, where state constitutions frequently have been amended to confer general or specifically enumerated self-governing powers on cities and towns, and sometimes on counties and townships.

In the US, local governments are considered “creatures of the State” as well as subdivisions of the State; and as such, are dependent upon the State for their existence, structure, and scope of powers. State legislatures have plenary power over the local units of government they create, limited only by such restrictions they have imposed upon themselves by state law or in their state constitutions, most notably home rule provisions. In an opinion in 1868, the Iowa Supreme Court expressed this philosophy of statutory construction to reflect this rule of dependency in what became known as “Dillon’s Rule” or the Dillon Rule (named for the justice who wrote the decision). The U.S. Supreme Court also expressed this philosophy in *Hunter v. Pittsburgh*, 207 U.S. 161 (1907).

Dillon’s Rule states a local government has only those powers granted in express words, those powers necessarily or fairly implied in the statutory grant, and those powers essential to the accomplishment of the declared objects and purposes of the local unit. Any fair, reasonable, or substantial doubt concerning the existence of power is resolved by the courts against the local government.

In contrast, under home rule, local governments have all powers except for those expressly prohibited by the State or those which conflict with state statute. This difference in the source of a local government's powers is the central difference between Dillon's Rule states and home rule states.

Kansas

Adopted by voters in the 1960 general election and taking effect July 1, 1961, Article 12, Section 5 of the Kansas Constitution authorized cities to be "empowered to determine their local affairs and government," thus significantly altering the relationship between the State and its municipal governments. After July 1, 1961, cities were no longer dependent upon specific enabling acts of the Legislature. The key constitutional language contained in Article 12, Section 5 of the Kansas Constitution, reflects the broad scope of the grant of home rule power for Kansas cities.

"Statutory Home Rule Grant for Counties was enacted by statute in 1974. The County Home Rule Act provides that "the board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate." subject only to the limits, restrictions, and prohibitions listed in the Act (KSA 2019 Supp. 19-101a). The major distinction between county home rule and city home rule is that county home rule is granted by statute, whereas the city home rule is granted directly by the people.

Source: Kansas Legislative Research Department [Home Rule – KLRD](#)

Missouri

Missouri allows for Home Rule for cities and counties through state statute, the state constitution and Dillon's Rule. In 1971, Missouri amended its Constitution to allow cities powers which the general assembly has authorized provided such powers are consistent with the State Constitution and are not limited by either a locally adopted charter or state statute.

PREEMPTION

Preemption is the use of state law to nullify a municipal ordinance or authority. State preemption can span many policy areas including environmental regulation, firearm use and labor laws. The National League of Cities 2017 report identifies recent Missouri preemption for local authority around minimum wage and paid leave laws, municipal broadband, ridesharing and tax and expenditure limits. Kansas similarly limits wage and paid leave laws and tax and expenditure limits. These limits occur either by statutory or constitutional law. In some cases, court rulings have forced cities to roll back ordinances already in place. Tax and Expenditure Limits (TEL) have been burdensome for local governments in limiting the ability of cities and counties to raise revenues, spend taxes or both. Missouri and Kansas both have some form of property tax limitations.

UNFUNDED MANDATES

An unfunded mandate is when a local government must perform certain actions or offer certain programs but doesn't receive any or adequate state or federal funds to carry out the required responsibilities. Examples of unfunded mandates put in place by states include requirements around election policies and practices, provision of information requested by the public at no or modest charge, and law enforcement and court practices.

Missouri Municipal League policy opposes unfunded mandates and provide for reimbursement to cities for direct costs of compliance with state laws, policies, regulations and standards that impose additional costs and responsibilities on local governments, pursuant to the Missouri Constitution (Article X, Section 21) commonly referred to as the “Hancock Amendment.”

Kansas League of Municipalities 2024 Policy [2024 state statement of muni.pdf \(ymaws.com\)](#)

Consistent with the Home Rule Amendment of the Kansas Constitution approved by voters, KLM supports local elected officials making decisions for their communities, particularly tax and revenue decisions.

Missouri Association of Counties 2023 Policy www.mocounties.com/legislative-priorities

County governments are first-line providers of service to residents and their communities, and many of the services provided by the county are mandated by state law. These mandated services are often unfunded or underfunded, which drives costs up for counties in carrying out the mandated services.

RESOURCES

National League of Cities, 2020: [Home-Rule-Principles-ReportWEB-2-1.pdf \(nlc.org\)](#) The report provides historical background on home rule for states.

National League of Cities

[What You Need to Know About Preemption - National League of Cities \(nlc.org\)](#)

[How States Preempt Local Laws - National League of Cities \(nlc.org\)](#)

One of the most visible challenges city policymakers are facing today are states that preempt their lawmaking abilities.

[Exploring the Impacts of Preemption - National League of Cities \(nlc.org\)](#) 2021

The 2021 state legislative sessions resulted in [over 400 preemption bills](#) according to the Local Solutions Support Center. While case-by-case evidence suggests that preemption impedes economic, social and racial equity and local innovation, there has not been much research linking preemption to harmful local outcomes. To better understand the impacts of preemption on government and community outcomes, NLC

engaged with researchers from Michigan State University and University of Memphis to explore these connections. The researchers used a [new preemption dataset](#) that NLC developed with the Policy Surveillance Program at Temple University. Preemptions that limit how cities raise revenue, called Tax and Expenditure Limitations (TEs), are some of the oldest and most prevalent preemptions. Erika Rosebrook of Michigan State University investigated [how local service capacity](#) is affected by these types of revenue-raising restrictions.

[The Changing Landscape of Preemption - National League of Cities \(nlc.org\)](#) Feb 2022

To better understand preemption changes and their impacts on local policies, NLC, in partnership with the Policy Surveillance Program (PSP) of Temple University's Center for Public Health Law Research, tracked and analyzed proposed preemption bills and passed laws. These bills and laws fall into 12 policy areas including firearms, rent control, paid leave, municipal broadband, inclusionary zoning, Ban the Box and six common tax and expenditure limits (TEs). NLC worked with national partners to develop a state-by-state analysis of legislative actions to limit local government authority. The 2019 database is available through NLC.

[Empowering Local Authority: Advocating for Responsible Preemption - National League of Cities \(nlc.org\)](#)

[This report outlines steps that cities and support organizations might take to address preemption by state legislatures.](#)

The National Association of Counties has state summaries outlining home rule authority, powers of local counties, revenue sources and other information. Kansas:

https://www.naco.org/sites/default/files/event_attachments/DRAFT_Kansas_012022.pdf

Missouri: [DRAFT_Missouri_012022.pdf \(naco.org\)](#)