

Home Rule – An Incursion on State Supremacy

The concept of home rule is an exception to the traditional (Dillon's Rule) limitations on the powers of local government. Home rule is dependent on specific delegation from the state. In Pennsylvania, pursuant to a 1968 constitutional authorization,¹ legislation was enacted in 1972 that provides municipalities the option of home rule.²

A succinct summary of the meaning of home rule is provided in the Department of Community and Economic Development publication, *Home Rule in Pennsylvania*.³

The basic concept of home rule is relatively simple. The basic authority to act in municipal affairs is transferred from state law, as set forth by the General Assembly, to a local charter, adopted and amended by the voters.

This basic point has been explained... [as follows]. "Home rule means shifting of responsibility for local government from the State Legislature to the local community... a borough choosing home rule can tailor its governmental organization and powers to suit its special needs." [A home rule]... charter [can be likened] to a local constitution for the municipality. "It is a body of law, a framework within which the local council can adopt, adapt and administer legislation and regulations for the conduct of business and the maintenance of order and progress."

But home rule does not set a municipality adrift from the rest of the state. It is subject to restrictions found in the United States and Pennsylvania constitutions and in state laws applicable to home rule municipalities. Local autonomy under home rule is a limited independence, but the thrust has been changed. Local governments without home rule can only act where specifically authorized by state law; home rule municipalities can act anywhere except where they are specifically limited by state law.

¹ Pa. Const., art. IX, § 2.

² See Home Rule Charter and Optional Plans Law, 53 Pa.C.S. § 2901 et seq. Note: Allegheny County operates under a distinct home rule law, the Second Class County Charter Law, established by Act 12 of 1997 (16 P.S. §§ 6101-C – 6113-C). Likewise, the City of Philadelphia operates under the First Class Cities Home Rule Act, established by Act 155 of 1949, (53 §§ 13101-13114). The County and City of Philadelphia were consolidated pursuant to the Philadelphia City – County Consolidation Act, Act 433 of 1953 (53 P.S. §§ 13151, 13132, 13152-13153), which was enacted "... to carry out the intent and purpose of Article XV, Section 1, of the Constitution of Pennsylvania, known as the 'Home Rule Amendment,' and Article XIV, Section 8, of the Constitution of Pennsylvania, known as the 'City-County Consolidation Amendment'"

³ *Home Rule in Pennsylvania*, 11th ed., Governor's Center for Local Government Services, Pennsylvania Department of Community and Economic Development, Harrisburg, Pa., March 2020, p. 2 (citations omitted). <http://dced.pa.gov/download/Home%20Rule%20Governance%20in%20Pennsylvania/?wpdmdl=56792> (accessed August 12, 2020).