

policy profiles

VOL. 2, No. 3 AUGUST 2002

CENTER FOR GOVERNMENTAL STUDIES
Northern Illinois University

issue: *The Uses of Home Rule With Special
Emphasis on Taxation*

James M. Banovetz and Thomas W. Kelty

The Debate:

- *Home rule gives cities the power to solve local problems. (Supporters)*
- *Home rule gives cities too much power, especially too much power to tax. (Opponents)*

The Findings:

- *Home rule taxes reduce cities' reliance on the property tax*
- *Cities use home rule to respond to quality of life concerns.*
- *Little voter opposition to home rule was reported in home rule cities.*



NORTHERN
ILLINOIS
UNIVERSITY

Public debate continues in Illinois over what was probably the single most significant change in Illinois law made when the state's present constitution went into effect in 1971. At issue is whether or not the constitution's home rule provisions gave individual cities too much power, especially too much power to tax.

A just completed survey, 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. Table 1 divides home rule communities into six groups based on population size and geographic location, shows how many home rule communities are in each group, and the number and percentage of respondents from each of the six categories.

table one
Home Rule Survey Participation, 2002

Location & Size of Municipality	# Home Rule*	# Responding	% Responding
Cook Co. over 25,000 pop.	31	21	68
Cook Co. under 25,000 pop.	32	15	47
Collar Co. over 25,000 pop.	25	15	60
Collar Co. under 25,000 pop.	15	8	53
Outstate Co. over 25,000 pop.	19	13	68
Outstate Co. under 25,000 pop.	23	11	48
Total	145	83	57

* As of November 1, 2000, excluding Cook County and the City of Chicago.

The overall response rate for the largest communities, those over 25,000 population, was 65 per cent; the response rate for the 70 home rule communities under 25,000, each of which adopted home rule by referendum, was 49 percent.

Larger communities make the most intensive use of home rule powers; these are the same communities that had the highest participation rate in the survey.

What did the survey find?

The survey found that the frequency and breadth of home rule use increased significantly in some important categories and changed little in other categories during the years since similar surveys were conducted in 1983 and 1986. (See J. Banovetz and T. Kelty, *Home Rule in Illinois: Image and Reality* (Sangamon State University: *Illinois Issues*, 1987.) Table 2 summarizes the findings from the 2002 survey and compares them to the 1983-86 surveys.

Several significant changes occurred between 1986 and 2002. First and foremost, of course, is a very significant increase in the use of home rule taxing powers. Of equal significance is an even sharper decline in the use of home rule powers to borrow money. While the first will suggest to some observers that home rule governments are misusing financial powers, the second directly countermands that conclusion.

Other significant changes are found in the increased use of home rule powers to buy, sell, or lease property and to levy higher sales taxes. But there was little significant change in the frequency with which home rule powers were used to engage in regulatory activities, to utilize intergovernmental agreements, to change the structure of government, or to extend property taxes beyond statutory limits.

Economic development uses were not categorized as such in 1983-86, but the survey results did report that the variety of uses lumped into this category made it one of the most frequent uses of home rule powers at that time and it, along with home rule taxation, remains one of the most frequent uses of home powers.

table two

Uses of Home Rule Powers

Function	1983-86	2002*
Communities reporting (Columns show percentage of respondents using home rule powers for the function)	105 or 95%	83 or 57%
Economic Development	**	83
Levy taxes based on home rule powers	57	83
Regulation	72	78
Reduce the cost of borrowed money	90	74
Buy, sell, or lease property	43	73
Regulatory Licensing	61	55
Intergovernmental Agreements	58	52
Change structure of government	30	29
Exceed Tax Caps	NA***	22
Extend property tax beyond statutory limits	16	18

* Listed in order of frequency of use

** Not tabulated, but incidence of use was second only to incurring debt

*** There were no tax caps in 1983-86.

Note: The lower survey participation in 2002 will cause some inflation in the percentages for that year since the majority of the non-participants were small communities which, in general, make much less use of home rule powers.

Doesn't the survey justify opponents' fears about home rule and higher taxation?

The survey found that home rule cities and villages are clearly making significant use of their power to levy taxes not available to non-home rule governments. Table 3 (on page 3) reports the survey's findings regarding the home rule taxes currently being levied.

Clearly, taxation has become a major use of home rule powers during the past 20 years. This finding raises the question of whether home rule tax powers are being abused or used excessively. Three other issues must be considered to answer that question: (1) on whom is the burden of this additional taxation falling (i.e., are the taxes being

paid by the same or different people), (2) are these new taxes being used to reduce, hold down, or replace other, more onerous taxes, and (3) is the total tax burden in home rule communities heavier, more oppressive, and repugnant to local taxpayers?

The third question is the hardest of the three to answer. Different cities and villages provide different services. Most provide basic police, fire, roads, and zoning services, but there are great variations in the provision of such services as ambulance, park, water, sewer, solid waste disposal, storm water collection and disposal, planning, economic development, and other services. Even in the common services, there is great variation: while all communities provide roads, for ex-

ample, not all provide and maintain curbs, gutters, and sidewalks. Further, voters in some communities want higher service levels than do voters in other communities. Because of such measurement problems, the survey did not attempt to compare either total tax levies or costs of government in home rule and non-home rule cities.

The survey did, however, gather data to answer the first two questions and it did gather information on voter response to local use of home rule powers. This information is provided in the rest of this report.

Don't local residents have to pay all the home rule taxes?

Local residents pay all the home rule taxes levied on activities in which they engage. To the extent that they shop in

their home community, they pay the added sales taxes that may be imposed by their community. If they rent hotel and motel rooms in their home community, they will also pay those taxes. But non-residents also pay a significant percentage of such taxes.

A closer look at the taxes listed in Table 3 will reveal that, of the nine taxes (excluding "other") listed there, only two, the wheel tax and the tax on the use of natural gas, are levied entirely upon residents or businesses in the community. The other seven taxes fall on non-residents as well as residents. *By using these taxes, home rule governments reduce the percentage of the local tax burden being paid by local taxpayers.*

The City of Mount Vernon offers a case in point. When the city was faced with the need to expand its sewage plant, the city's

leadership offered voters a choice. Without home rule powers, the city would have to levy higher property taxes or a new tax on utilities to pay for the sewage plant expansion. Either tax would have been paid exclusively by local taxpayers, but if the voters gave the city home rule powers, the officials promised to levy a higher sales tax to pay for the plant's expansion. Since the city had a large shopping mall which drew customers from a 50-mile radius outside the community, the use of sales taxes to pay for the expansion would mean that shoppers from outside the city would pay a portion of the cost. Faced with that choice, the voters, by a 3-2 margin, gave Mount Vernon home rule authority.

Some of the "other" taxes also fall on non-residents. The Village of Bedford Park, for example, has a large stone quarry inside its corporate limits. The village uses its home rule powers to levy a tax on the mining and removal of the stone. Enough revenues are produced from the tax so that the village does not have to levy a property tax to finance village operations and services.

The principal taxes levied by non-home rule communities (taxes on property, utility bills, and auto ownership) fall exclusively on residents. Perhaps for this reason, only one of these home rule taxes — the real estate transfer tax — has been strongly opposed by local residents. That opposition resulted in the passage of a new state law requiring local voter approval in a referendum before any new real estate transfer tax could be imposed by a home rule community.

Thus, survey data suggest that home rule tax powers have predominantly

tablethree

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.

policyprofiles

been used to shift a portion of the local tax burden to non-residents. To the extent that this is so, their use lessens the percentage of the local tax burden borne by residents.

Does home rule result in excessive imposition of sales taxes?

As Table 3 reports, 61 percent of home rule communities levy sales taxes over and above the one percent rate allowed by law to all municipal and county governments in the state. The 1983-86 survey found that only five percent of home rule communities levied home rule sales taxes at that time. Thus, the single biggest change in the use of home rule powers between the 1983-86 surveys and the 2002 survey was in the much more frequent use of sales taxation to finance local government operations.

Interestingly, this increased use of sales taxes came in large part as a result of a law passed by the Illinois legislature in 1992 prohibiting home rule retail sales taxes. To replace such taxes, the state gave home rule communities authority to increase the local option component of the state retail sales tax (technically called a retail occupation tax) from the one percent authorized for all cities and counties to as much as 2.5 percent. Because this new arrangement gave home rule governments the freedom to levy higher sales taxes without having to incur any collection costs, the use of home rule sales taxes increased rapidly thereafter.

In part, too, home rule governments turned to the use of sales taxes because there is little evidence of significant voter opposition to higher sales tax

levies. What evidence is available suggests that voters support home rule in part *because* of the home rule sales tax option. The business community in Sycamore, Illinois, for example, urged the city council to ask voters for home rule approval so the city could levy higher sales taxes rather than increase property taxes to finance needed municipal improvements.

Sales taxes also provide a way of funding local services that is viewed as less painful than higher property taxes. This was the case in Mount Vernon. Other communities do this in different fashions. Carbondale, for example, dedicated a part of its home rule sales tax revenues to paying for the construction of a new high school. Eighty-three percent of Bloomingdale voters, in an advisory referendum, approved the village's plan to use higher sales taxes to purchase and preserve open space in the community.

Despite such evidence, however, if sales and other home rule taxes are accompanied by large increases in property taxes, then they could fairly be challenged as abusive. If not, such a charge would be hard to sustain.

More to the point, it is not sales and home rule taxes, but rather the potential misuse or abuse of the property tax, that has concerned home rule opponents.

So do home rule communities levy higher property taxes?

The survey evidence relating to this question is mixed. Some evidence (see Table 2) indicates that some home rule communities do use home rule powers to levy higher property taxes: 18 percent

of home rule communities levy property taxes in excess of the statutory limits that would apply to them if they did not have home rule powers, and 22 percent of the communities reported that they have, in one or more years, levied property tax increases that exceeded the tax cap limitations which applied to non-home rule communities in those years.

But there is also evidence that home rule communities, as a group, rely less on property taxes for local revenues than do non-home rule cities and villages. *In other words, the survey found support for the contention that home rule non-property taxes are widely used to hold down or reduce property tax levies.*

Table 4, for example, provides survey data which suggests that home rule communities, as a group and when divided by population size and location, rely less heavily on property taxes for their revenue than do non-home rule communities. This is true even for communities which levy taxes in excess of applicable tax caps. The data in the table compares the percentage of total municipal revenues derived from property taxes by home rule communities with the percentage for all Illinois cities, villages, and incorporated towns.

Two qualifications must be made when interpreting the data in Table 4 (on page 5):

- While only 44% of the home rule communities responded to this part of the survey, making any *definitive* conclusions difficult to reach, the data collected offers *no support* for the notion that home rule communities, on average or in

general, are imposing property tax burdens higher than those imposed in non-home rule communities (which make up the greatest part of the statewide average of all municipalities).

■ All else being equal, home rule communities should show a higher than average level of dependence on property taxation. Normally, the cost of government, on a total and per capita basis, will be higher in larger communities. Since all but one of Illinois' cities over 25,000 population have home rule powers and higher costs, and since the smallest Illinois cities and villages are predominantly non-home rule with lower costs, home rule communities should show higher dependence on property taxes. This survey provides evidence which suggests that they do not.

That Illinois home rule cities appear to rely less on property taxes is not because such cities cost less to govern and serve, but more likely because they are able to use other kinds of taxes — especially taxes paid in part by non-residents — to reduce their dependence on property taxes. It is most likely, for example, that the relatively low percentage of total revenues derived by home rule communities from property taxes is related to the widespread use of the sales tax as an alternate revenue source in those communities.

Given these considerations, the most reasonable conclusion is that (1) home rule governments, on average, do not finance a higher percentage of their costs using property taxes, but rather that (2) they do a better job of spreading their tax burdens among a variety of taxes less onerous to local taxpayers.

tablefour

Municipal Reliance on Property Taxes: Percentage of Total Municipal Revenues Derived from Property Taxes

Category	All Home Rule	Taxing Property Over Statutory Limits
Cook County <25,000	18%	23%
Cook County >25,000	18%	*
Collar Counties <25,000	13%	11%
Collar Counties >25,000	15%	*
Outstate <25,000	15%	16%
Outstate >25,000	10%	*
Statewide Average**	26%	

* Too few cases for valid statistical comparison

** Source: *Statewide Summary of Municipal Finances, 1998, Report of the Comptroller General of Illinois*

Note: Data from survey are for year 2000; statewide data are for most recent year available, 1998.

tablefive

Average Annual Growth Rates of Property Taxes

Communities	Number	Growth Rate W/O Cap	Growth Rate W/ Cap
Non-Home Rule	104	14.57	7.14
Home Rule	134	9.03	7.55

Source: R.F. Dye & T.J. McGuire, *Journal of Public Economics* 66 (1997)

Are the survey findings consistent with other published research?

Only one other study, published in the *Journal of Public Economics*, has analyzed the effect of home rule on property tax increases. In that study, summarized in Table 5, R. F. Dye and T. J. McGuire found that municipal property taxes in Illinois have increased more rapidly in non-home rule communities than in home rule communities. Even when the effects of

the tax cap are taken into consideration, Dye and McGuire did not find the rate of increase in property taxes between home rule and non-home rule communities to be significantly different.

What then can be said about the relationship between home rule and taxes?

Whatever else home rule has accomplished for Illinois cities and villages, it has managed to spread tax

policyprofiles

burdens among a larger number of different taxes and, thereby, it has reduced local reliance on property taxes.

Since property taxes are widely regarded, nationally as well as in Illinois, as the least fair form of taxation, home rule's impact can be said to have transferred the burdens of municipal finance toward taxes that enjoy, if not greater voter support, then certainly less voter animosity and opposition.

What other changes have resulted from the use of home rule powers?

The survey shows that home rule's other major impacts have occurred in the fields of economic development, regulation, and changes in the organization and structure of local governments.

Aging and declining communities use home rule to attract new business development; rapidly growing communities use home rule both to control development and to make developers pay more of the increase in public services costs attributable to their developments. Home rule communities use their expanded powers to broaden zoning regulations, negotiate tax concessions, develop special planning and subdivision control regulations, and design programs to limit and eradicate neighborhood blight and deterioration.

Illinois home rule communities, for example, have established a broad use of impact fees to help finance community development. Impact fees are fees charged developers to recover increases in governmental costs associated with real estate developments; they are a device used to protect local residents from

having to bear a high portion of the cost of expanding certain government services, such as education and parks, needed to serve residents in new subdivisions.

Home rule communities use home rule powers to impose a broad and flexible array of impact fees on developers. Non-home rule communities may require that residential developers donate land, or cash in lieu of land, to help defray the cost of school and park expansion, but the scope of their authority is much narrower than the powers being used by Illinois' home rule communities.

Initially, home rule governments used their home rule powers to impose impact fees to transfer more of the burden of expanding education and park facilities from old to new residents. More recently, home rule communities have enlarged the list of government service expansions being expanded with the help of impact fees. The first expansion was for transportation impact fees, used to enlarge and expand major arterial streets to accommodate the increased traffic that follows new development. Some communities are now adding impact fees to help cover the cost of expanding library, fire protection, and, in some cases, even general municipal service costs.

Other examples of the use of home rule powers to promote economic and community development include: establishing special economic development districts within the community with special zoning and development goals (Skokie), providing homeowner loans to improve blighted properties (Evergreen Park), authorizing city purchase of properties in blighted commercial districts (Elk Grove

Village), and providing affordable senior citizen housing sites (Wilmette).

How is home rule being used for regulatory purposes?

Table 6 (on page 7) summarizes the most common regulatory uses of home rule powers.

Examples of the use of home rule powers in the regulatory area include: increasing the frequency of building inspections of rented housing units (Northbrook, Addison, Hanover Park), requiring permits for fiber optic trenching permits (Granite City), controlling handgun ownership and use (Morton Grove, Niles), and requiring hazardous materials cleanup (Morton Grove).

How much political opposition is there to the use of home rule powers?

Respondents to the survey reported very little voter opposition to the use of home rule powers. Two questions were asked regarding voter opposition. The questions and their answers are set forth in Table 7 (on page 7). Because of the frequent turnover in local officials, and the limitations on memory, such data must be considered valid for a limited period of time, such as the last decade.

This data is also supported by the frequency of referenda called by local voters to rescind home rule powers. There were 21 such referenda between 1971 and 1981; three were successful. There were only eight such referenda between 1982 and 1992; only one was successful. There have been no such referenda in Illinois since 1992.

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

table*seven*

Measures of Voter Discontent with Home Rule

Question	Response	Number	Percent
Has there been an effort to submit a referendum to abandon home rule in your community?	Yes	3	3.4
	No	79	90.8
Have there been any periodic, significant criticism or attacks on home rule in your municipality?	Yes	1	1.1
	No	81	93.1

conclusion:

What does this record show?

The record would seem to indicate that there has been growing voter acceptance of home rule in the communities which are using home rule powers. While taxation is a major use of home rule powers, the home rule taxes employed spread the cost of local government to non-residents as well as to residents and appear to be easing municipal reliance on property taxes. Finally, home rule communities are employing home rule powers for purposes other than taxation, principally to promote economic development and enhance governments' ability to address a wide range of local problems using regulatory and other measures.

Home rule, in short, appears to have proven itself an important weapon in empowering local governments to respond constructively to voter and quality of life concerns.

EDITORIAL ADVISORY BOARD:

Ken Alderson

Executive Director, Illinois Municipal League

Kathy Buettner

*Executive Director, State & Federal Relations,
Northern Illinois University*

Philip Bus

*Executive Director, Kane County Development
Department*

Steven C. Carter

City Manager, City of Champaign

Robert J. Christie

*Vice President, Public Affairs, Northwestern
Memorial Hospital*

Roberta Lynch

*Deputy Director, American Federation of
State, County & Municipal Employees*

Douglas L. Whitley

President, Illinois Chamber of Commerce

John Zeunick

County Administrator, McLean County

ABOUT THE CONTRIBUTORS:

James M. Banovetz is a senior research fellow at the Center for Governmental Studies, Northern Illinois University. A specialist in local government administration and management, he was a consultant to the Local Government Committee of the 1970 Illinois Constitutional Convention. His research on Illinois home rule has been published in *Illinois Issues*, *Northern Illinois University Law Review*, *Illinois Municipal Review*, and in the *Midwest Regional Science Quarterly*.

Thomas W. Kelty is a principal in the Springfield, Illinois, firm of Kelty Law Offices, P.C., where he concentrates in the areas of municipal law, municipal finance, land use planning and development, corporation law, and commercial litigation. General Counsel to the Illinois Institute for Local Government Law, he has represented hundreds of Illinois cities, villages, and counties over the last 30 years.

Policy Profiles is a publication of the Center for Governmental Studies, Northern Illinois University, and may be reproduced in its entirety with attribution to the Center for Governmental Studies, Northern Illinois University, DeKalb, Illinois.

Director: Charles E. "Pete" Trott
Editor: James M. Banovetz
Contributors: James M. Banovetz
Thomas W. Kelty
Design: Trittenhaus Design

For more information contact:
Center for Governmental Studies
815-753-1907
fax 815-753-2305
www.cgsniu.org

¹The views expressed in this edition of *Policy Profiles* are those of James M. Banovetz and Thomas W. Kelty and do not necessarily represent the views of the Center for Governmental Studies or of Northern Illinois University.