



AGENDA
VILLAGE OF GLENCOE
BOARD OF TRUSTEES
COMMITTEE OF THE WHOLE

Village Hall Conference Room
675 Village Court
Thursday, July 18, 2019 – 5:30 PM

I. CALL TO ORDER

Honorable Lawrence Levin, Village President
Joe Halwax, Trustee
Gail Lissner, Trustee
Barbara Miller, Trustee
Peter Mulvaney, Trustee
Gary Ruben, Trustee
Jonathan Vree, Trustee

II. PUBLIC COMMENT

Individuals interested in addressing the Village Board on non-agenda items may do so during this time.

III. DISCUSSION AND REVIEW OF THE VILLAGE'S GOVERNANCE STRUCTURE

IV. OTHER BUSINESS

V. ADJOURN

The Village of Glencoe is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of the meeting or the facilities, are requested to contact the Village of Glencoe at least 72 hours in advance of the meeting at (847) 835-4114, or the Illinois Relay Center at (800) 526-0844, to allow the Village of Glencoe to make reasonable accommodations for those persons.



VILLAGE OF GLENCOE MEMORANDUM

675 Village Court, Glencoe, Illinois 60022
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Date: July 18, 2019

Staff Contact: Sharon Tanner, Assistant Village Manager, Village Manager's Office

Agenda Item: *3.1. - Discussion and Review of the Village's Governance Structure*

The Village's Strategic Plan includes a goal and set of initiatives related to a study and review of the Village of Glencoe's governance structure. As such, the Village Board directed staff to evaluate the Village's regulatory, economic development and financial authority as a special charter, non-home rule municipality to inform future discussions about whether the Village's current form of government adequately equips the Village to respond to the community's needs in the continually-changing legislative environment of the State of Illinois.

Following a discussion at the May 16 Committee of the Whole meeting, the Village Board requested that staff conduct additional research regarding governance. A memorandum summarizing this additional research is attached.

Staff and Village Attorney Steve Elrod will be present at the July 18 Committee of the Whole meeting to answer any questions from the Village Board.

ATTACHMENTS:

1. Governance Memorandum



VILLAGE OF GLENCOE MEMORANDUM

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DATE: July 12, 2019
TO: Philip A. Kiraly, Village Manager
FROM: Nikki Larson, Finance Director
Sharon Tanner, Assistant Village Manager
SUBJECT: Review of the Village of Glencoe’s Governance Structure

Introduction

During development of the Village’s Strategic Plan and strategic vision statement, the Village Board discussed the State of Illinois’ significant impact on Village operations. As an outcome of this discussion, the Board determined that it is necessary and appropriate to evaluate the Village’s current governance structure, including its regulatory, financial and economic development authority. To that end, the Board directed staff to evaluate the Village’s authority as a special charter, non-home rule municipality to inform future discussions regarding whether Glencoe’s current form of government provides optimal regulatory authority and adequately equips the Village to respond to the community’s needs within a continually-changing State legislative environment. A team of staff from each department compiled this analysis.

At the May 16, 2019 Committee of the Whole meeting, staff and Village Attorney Steve Elrod presented an overview of municipal governance structures in Illinois. Following that presentation, the Board asked staff to prepare additional information regarding Glencoe’s regulatory authority as a special charter, non-home rule municipality and governance in the region. At the July 18, 2019 Committee of the Whole meeting, staff will present the Village Board with information regarding legal aspects of home rule authority, governance in the region and the application of home rule authority in neighboring communities, past applications or limitations of Glencoe’s authority and past reviews of Glencoe’s governance structure. Following the Board’s discussion, staff will request direction from the Village Board to conduct additional research, develop potential options for further evaluation of home rule authority or cease discussions regarding the Village’s governance structure.

Legal Aspects of Home Rule Authority

Village Attorney Steve Elrod has prepared a memorandum providing several examples in which home rule authority was affirmed by Illinois courts, which is attached in Appendix 1. For example, the Courts have affirmed municipalities’ home rule authority to impose zoning and storm water regulations on other units of government within the municipality, implement parking restrictions and related fines, adopt animal control regulations, implement taxes on transactions such as car rentals and ticket resellers, and to transparency enhancements for residents of condominium associations.

Attachment: Governance Memorandum (Governance Discussion)

Governance in the Region

As was presented at the May Committee of the Whole meeting, the majority of municipalities in the North Shore region have home rule authority. Evanston, Glenview, Highland Park, Morton Grove, Niles, Northbrook, Skokie and Wilmette were granted home rule authority automatically with populations of at least 25,000, whereas Bannockburn, Deerfield, Golf, Highwood, Lake Bluff, Lake Forest, Lincolnwood, Northfield and Winnetka obtained home rule authority by voter referendum. A list of all 217 home rule municipalities in the State of Illinois is included as Appendix 2.

At that meeting, the Board inquired about how other area municipalities have exercised home rule authority that was obtained by referendum. In order to evaluate how area municipalities have exercised home rule authority, staff surveyed nearby municipalities to learn about local policy decisions that were enacted after obtaining home rule authority. The City of Lake Forest and the Villages of Bannockburn, Lake Bluff, Northfield and Winnetka responded to the survey. All five municipalities obtained home rule authority by voter referendum (Bannockburn in 2006, Lake Bluff in 2005, Lake Forest in 2004, Northfield in 2010 and Winnetka in 2005). The survey results are attached as Appendix 3 and summarized below.

It is important to note that every municipality makes its local policy decisions based on the unique needs and desires of the community, and therefore, each home rule municipality is likely to exercise its authority differently and one community's exercise of authority should not necessarily be considered indicative or predictive of how another community might exercise its authority. Rather, the survey provides examples of how home rule authority may be exercised in local policy making. The information below summarizes how each community applied its home rule authority.

Fee and Debt Implementation

Staff completed a survey of communities that have recently attained home rule status; inquiring specifically as to any fees implemented or new debt incurred following their change in governance. A number of surrounding communities indicated that they have utilized their home rule authority to diversify their revenue sources, which may alleviate pressure to increase property taxes and shift a portion of the tax burden to non-residents, for example, those individuals that patronize local restaurants, fueling stations or entertainment venues. The results of this survey are summarized in the following chart.

	Bannockburn	Lake Bluff	Lake Forest	Northfield	Winnetka
Taxes and Fees					
Automobile Rental Tax	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Demolition Tax	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Food and Beverage Tax	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hotel/Motel Tax	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Home Rule Sales Tax	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Local Motor Fuel Tax	<input type="checkbox"/>				
Real Estate Transfer Tax	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stormwater Fee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Self-Imposed Property Tax Limitation Ordinance, Resolution or Policy	Ordinance	Resolution	Ordinance	Ordinance	Policy

Policy Changes

After obtaining home rule authority, any and all policies that a municipality implements are done so pursuant to its home rule authority. That is to say, when staff surveyed these communities, it was difficult for them to ascertain whether the policies that were enacted were policies that had been considered and rejected when they were not home rule as once they achieved home rule authority, the question of whether they could implement a policy was no longer asked. A summary of the policies implemented in neighboring communities after obtaining home rule authority include: the implementation of an administrative adjudication program for municipal code violations (including zoning violations,

permit violations and nuisance violations), adoption of an ordinance prohibiting businesses located in the municipality from reporting sales made within the municipality as being made elsewhere or entering into agreements with other units of local government to make such reports, implementation of a commercial property maintenance code, implementation of additional business licensing regulations, implementation of a tree canopy ordinance for private property and implementation of additional zoning, property maintenance and appearance requirements (such as sign and billboard regulations). Additionally, some neighboring municipalities that were surveyed developed affordable housing plans specific to the municipality's needs and those municipalities determined whether their plan would be filed with the Illinois Housing Development Authority.

Self-Imposed Limitations on Home Rule Authority

Following successful home rule referenda, several communities opted to impose self-restricting ordinances to continue to abide by the Property Tax Extension Limitation Law ("PTELL"), which is a state law that limits non-home rule municipalities' property tax levy increase to the lesser of the rate of inflation in the national Consumer Price Index or 5%. PTELL currently applies to the Village of Glencoe. The following communities have adopted such an ordinance:

- **Lake Bluff:** Prior to its referendum, the Lake Bluff village board approved a resolution which committed the village board to abide by the Property Tax Extension Limitation Law for the non-library portion of the tax levy, unless the village board determined that a bona fide emergency or legal requirement dictates an increase, or that an advisory referendum has determined community support for the increase.
- **Lake Forest:** Prior to its referendum, the Lake Forest city council approved an ordinance which requires the city to abide by PTELL, unless the city council determines that a bona fide emergency or legal requirement exists, or that an advisory referendum has determined community support for an increase. Lake Forest's ordinance was amended in 2013 to address the loss of State-shared revenues as an emergency.
- **Northfield:** Prior to its referendum, the Northfield village board approved an ordinance which requires the city to abide by PTELL, unless the village board determines that a bona fide emergency or legal requirement exists, or that an advisory referendum has determined community support for an increase. Northfield's ordinance requires a super majority of the village board to rescind the ordinance.
- **Winnetka:** As part of its referendum, the Winnetka village council committed to operate within the non-home rule tax cap limitations of PTELL but did not formally adopt a resolution or ordinance. Winnetka's Fiscal Year 2019 budget continues this policy.

Generally, when considering a self-imposed property tax limitation, a home rule municipality has greater financial flexibility to shift its revenue needs to non-property tax sources of revenue than a non-home rule municipality. For example, a home rule municipality that implements a self-imposed property tax extension limitation may instead opt to meet its revenue needs by implementing different types of revenue, such as a real estate transfer tax, prepared food and beverage tax, entertainment/amusement tax or storm water utility fee. The balance of revenues derived from property taxes and sources other than property taxes is ultimately a local decision that varies by municipality, based on the local policy decisions and the feasibility of implementing specific types of non-property tax revenue (for example, a municipality with few hotels may determine that a local hotel/motel tax is not a viable source of revenue, whereas a municipality with many hotels may determine that such a tax is a viable revenue source).

Application of Glencoe's Authority

At the May 16 Committee of the Whole meeting, the Village Board reviewed a broad summary of the type of authority granted to non-home rule and home rule municipalities in various forms of regulation. A copy of this summary is included as Appendix 4, for reference. At the meeting, staff will discuss specific examples in which the Village was limited by its non-home rule authority. For example, the Village was unable to regulate the use of coal-tar asphalt products and the Village cannot create a lateral police officer hiring process, nor can it establish a local adjudication process for local building code ordinance violations. Additionally, the Village is limited in its ability to regulate short-term home rentals.

Past Reviews of Glencoe's Governance

Prior to the development of the current Strategic Plan initiative to evaluate the Village's governance structure, Glencoe reviewed its governance structure in 1998, 2005 and to a lesser degree in 2015.

In 1988, the Village held a referendum on the question of becoming home rule, which failed by a margin of nearly three to one (1,088 votes in favor of home rule, 3,172 against home rule). At the time, affordable housing was an issue central to the home rule discussion, and the question of whether the added financial flexibility of home rule authority was worth the elimination of statutory requirements for referenda on major financial matters (e.g., issuance of debt, exceeding the property tax cap established by the Property Tax Extension Limitation Law). Home rule opponents suggested that home rule is not appropriate in a community where the caucus political system is utilized, as selections of candidates in this system may be limited or uncontested. Please note, a caucus system does not legally preclude a contested election.

In 2005, the Village convened a task force of 18 community members to evaluate the concept of home rule in Glencoe. Again, affordable housing was a central issue to the home rule discussion. The task force received information regarding home rule authority generally, regulatory authority and the Village's finances and ultimately made a recommendation to the Village Board in June 2006 that home rule only be pursued if the Village adopted a self-constraining ordinance to limit exercise of home rule authority by requiring the Village to use the voter referendum process before issuing debt. In 2006, the Village Board held a discussion regarding home rule generally and the task force's recommendation, and received public comment in support and in opposition to home rule. With respect to financial authority, some supporters of home rule noted the benefit of being able to implement taxes that would be paid by non-residents who visit Glencoe, and some opponents voiced concerns regarding increasing the Village Board's authority to tax and incur debt without voter input. While members of the Board noted the importance of evaluating all options regarding governance, ultimately, the Board opted not to move forward with a referendum, noting residents' concerns regarding taxation, the divided community opinion regarding home rule and the lack of a compelling issue that could be addressed by home rule authority at that time.

In 2015, the Village Board received and discussed information regarding home rule generally, the Village's special charter and home rule authority in the North Shore region. At that time, Board members noted some conceptual benefits of home rule governance, as well as questions of community perception home rule authority and concerns regarding the lack of a compelling reason to pursue home rule authority. The Board opted not to direct staff to conduct any additional research on the topic or take and further action and noted that it would be helpful to continue evaluating the Village's current authority and the authority that home rule would provide, in the context of specific Village projects and initiatives.

Next Steps

Following the Board's discussion at the July 18 Committee of the Whole meeting, staff will request the Village Board's feedback regarding possible next steps it may wish to consider, if any. The Board may direct staff to conduct additional

research regarding governance, develop potential options for further evaluation of home rule authority, commence the process of initiating a referendum question or cease discussions regarding the Village's governance structure.

Should the Village Board direct staff to plan a referendum question, staff can assist with community outreach strategies to provide informational material regarding home rule authority and/or gauge the community's perspective on the topic. Strategies may include questions related to governance on a community survey, community discussion forums and/or development of informational materials related to home rule generally. If the Board elects to proceed in this manner, statute would require that the Village Board approve a resolution to place the question on a voter referendum at least 79 days prior to the election date.

Staff and Village Attorney Steve Elrod will be prepared to respond to questions from the Village Board at the July 18 Committee of the Whole meeting.

Appendices

1. Village Attorney Memo – Legal Cases
2. List of Illinois Home Rule Municipalities
3. Survey of Neighboring Municipalities
4. Examples of Local Legislative Authority

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Memorandum

Date: June 27, 2019

To: Philip Kiraly, Village Manager

From: Steven M. Elrod, Village Attorney

Re: Home Rule Case Law Update

At your request, we prepared this Memorandum to highlight the extent to which Courts have upheld or overturned the use of home rule powers since the Village's last discussion regarding home rule authority. We have organized the cases in this Memorandum into three categories: (1) cases related to the levy or collection of taxes and fines, (2) cases related to the ability to regulate the health, safety, morals and welfare, and (3) cases related to municipal procedure or governance.

Background.

The Illinois Constitution grants home rule units of government the authority to exercise any power, and to perform any function, pertaining to its government and affairs. Ill. Const. 1970, art. VII, § 6(a). This includes, but is not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; and the power to license; to tax; and to incur debt. *Id.* Home rule is predicated upon the assumption that problems affecting municipalities and their residents should be met with solutions tailored to local needs. *Kalodimos v. Village of Morton Grove*, 103 Ill.2d 483, 502, 83 Ill.Dec. 308, 470 N.E.2d 266 (Ill. 1984).

Home rule units of government 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. Ill. Const. 1970, art. VII, § 6(i). Under section 6(i), home rule units can continue regulating activities in their communities, even if the State also has regulated such activities. *County of Cook v. John Sexton Contractors Co.*, 389 N.E.2d 553 (Ill. 1979). Section 6(i) simply eliminates the implied preemption of local authority "by judicial interpretation of unexpressed legislative intention" *Scadron v. City of Des Plaines*, 153 Ill.2d. 164, 186, 180 Ill.Dec. 77, 606 N.E.2d 1154 (Ill. 1992).

Under Illinois law, courts perform a three-part inquiry to determine whether an exercise of home-rule power by a municipality is valid under the constitution: first, the municipal exercise of power must pertain to the municipality's government and affairs; second, the General Assembly must not have explicitly preempted the power or function that the municipality seeks to exercise or perform; and third, if the municipality's exercise of power pertains to the municipality's government and

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affairs and is not specifically preempted by the General Assembly, then it is up to the courts to determine the proper relationship between the local ordinance and the relevant state statute. *Village of DePue, Illinois v. Viacom Intern., Inc.*, 632 F.Supp.2d 854 (N.D. Ill. 2009).

1. Cases Related to Levy or Collection of Taxes and Fines

- a. *City of Chicago v. StubHub, Inc.*, 979 N.E.2d 844 (Ill. 2011). The City of Chicago passed an ordinance requiring both resellers of sporting tickets and reseller agents to collect amusement taxes. Stubhub argued that a home rule municipality cannot require electronic intermediaries to collect and remit amusement taxes on resold tickets and that the state Ticket Sale and Resale Act preempted the City's ability to define "resellers agent" to include online resellers such as Stubhub. The Court found that the State had a more vital interest in regulating online auctioneers than local governments, and therefore the City's home rule powers were preempted.
- b. *Hertz Corporation v. City of Chicago*, 77 N.E.3d 606 (Ill. 2017). The City of Chicago passed an ordinance requiring car rental companies to collect taxes on transactions that occur within three miles of the city's boundaries, when customers voluntarily stated their intention to use the vehicle at least 50% of the time within the boundaries of the City. Although an extraterritorial regulation does not *per se* exceed home rule power, the Court found that it was not certain that drivers would take the vehicles into the City, and therefore, the City could not force the rental companies to collect and remit the tax outside of the City boundaries based solely on the customers' statements.
- c. *Shachter v. City of Chicago*, 52 N.E.3d 339 (Ill. App. Ct. 2016). The City of Chicago established a \$1,200 fine for violations of their nuisance weed ordinance, despite the Illinois Municipal Code setting a maximum fine for such a violation at \$750. The Court found the statute did not preempt the City's ability to do so, as the Illinois Municipal Code's reference to "municipalities" as it related to the maximum fine was not a specific, express statement to the effect that it was preempting home rule power.
- d. *City of Wheaton v. Loerop*, 399 Ill.App.3d 433 (Ill. App. Ct. 2010). The City of Wheaton imposed a fine of \$1,200 for DUI while the maximum fine set by statute was \$750. As with the *Schachter* case, the Court found the statute had not preempted the City's ability to impose a higher fine.
- e. *Accel Entertainment Gaming, LLC v. Village of Elmwood Park*, 399 Ill.Dec. 651, (Ill. App. Ct. 2015). The Village of Elmwood Park established regulations governing where gaming terminals could be placed and charged a license fee per terminal. The terminal operators argued that the Illinois Video Gaming Act established the restrictions for video gambling and therefore preempted the Village's ability to further regulate their location or locally license. However, the Court found that the establishment and regulation of video gaming within the Village boundaries pertained to the Village's government and affairs and the statute did not explicitly preempt local regulations. Therefore, the regulations were within the Village's home rule powers to enact and enforce.

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- f. *Midwest Gaming and Entertainment, LLC v. County of Cook*, 395 Ill.Dec. 819, 39 N.E.3d 286, appeal denied 397 Ill.Dec. 456, 42 N.E.3d 371 (Ill. App. Ct. 2015). Cook County passed a tax on video gaming (gambling) terminals. Video gaming terminal owners challenged the County's authority to place an occupation tax on the gaming terminals. The Court, however, found that the tax in question was not an occupation tax, and state statute authorized a home rule county (namely, Cook County) to impose a tax on video gaming.
- g. *Illinois Coin Mach. Operators Ass'n v. County of Cook*, 46 N.E.3d 293 (Ill. App. Ct. 2015). This case also challenged Cook County's tax on video gaming terminals. In this case, the Court found that although the Riverboat Gambling Act prohibited municipalities from requiring payment of such tax, that statute did not expressly preempt home rule and the tax in question did not constitute an occupation tax. Therefore, the tax was a permissible use of the County's home rule power.

2. Cases Related to the Ability to Regulate Health, Safety, Morals and Welfare

- a. *Gurba v. Community High School No. 155*, 396 Ill.Dec. 348, (Ill. 2015). Community High School District 155 argued that it was not required to seek zoning or storm water approval from the City of Crystal Lake to construct a grandstand seating structure for its football stadium. Although school buildings are not required to comply with local building codes, the School Code is silent with regard to compliance with zoning or storm water regulations. In the absence of explicit preemption, the Court found a home rule municipality had the authority to regulate zoning and storm water management of school district property. The Court noted that zoning is a local concern traditionally regulated by local governments, and the School Code did not explicitly preempt local authority.
- b. *Youngberg v. Village of Round Lake Beach*, 83 N.E.3d 493, (Ill. App. Ct. 2017). The Village of Round Lake Beach passed an ordinance requiring all vehicles parked on private property to be registered with the State. A resident brought suit, arguing the State had a vital interest and role in motor vehicle registration which preempted the Village's ordinance. The Court disagreed, finding parking on Village streets to be a matter of local concern, and therefore within the Village's home rule powers to regulate absent an express preemption.
- c. *County of Cook v. Village of Bridgeview*, 380 Ill.Dec. 733, 8 N.E.3d 1275 (Ill. App Ct. 2014). The Village of Bridgeview passed an ordinance prohibiting village residents from operating feral cat colonies within the Village notwithstanding a County ordinance explicitly allowing the operation of such colonies subject to strict regulations. The County regulations sought to address the spread of rabies due to the overpopulation of feral cats by allowing licensed keepers the right to maintain feral cat colonies so long as they followed an accepted catch, neuter/spay, and release practice. In contrast, the Village's ordinance prohibited feral cat colonies outright. The Court found that the practice of controlling animal populations and preventing the spread of disease was an issue of statewide rather than local concern, and therefore the County both had the higher interest in regulating and the established practice of doing so. Therefore, the Village exceeded its constitutional home rule authority in enacting its prohibition.

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- d. *Palm v. 2800 Lake Shore Drive Condominium Association*, 988 N.E.2d 75, (Ill. 2013). The City of Chicago passed an ordinance granting residents of condominium associations the right to seek association documents without having to state a purpose for those documents, and did not limit how far back in time requests for records could extend. The rights granted by the City ordinance differed from State law which required requestors to provide a statement of purpose and limited the documents a requestor could receive to the past 10 years. The Court found the City ordinance permissible as a valid exercise of home rule, as State law had no preemption and the State had no vital interest in the matter.

3. Cases Related to Procedure and Governance

- a. *Pederson v. Village of Hoffman Estates*, 8 N.E.3d 1083, (Ill. App. Ct. 2014). The Village of Hoffman Estates passed an ordinance establishing procedures for the issuance of PSEBA benefits. The ordinance required applicants to file an application with the Village, which would then conduct a hearing to determine an applicant's eligibility. The Court found the Village had the authority to do so pursuant to its home rule powers, and the Court would not have original jurisdiction over a PSEBA claim. This process results in a reviewing court applying a more deferential standard of review to the Village's decision than if it had original jurisdiction (although the Court nonetheless awarded the applicant PSEBA benefits). *See also Englum v. City of Charleston*, 80 N.E.3d 61 (Ill. App., 2017) (finding Section 5/10-4-1 of the Illinois Municipal Code constituted an express grant of authority to establish PSEBA procedures for a non-home rule municipality). Although, *Englum* supports the notion that both home rule and non-home rule municipalities can establish procedures for granting PSEBA benefits specifically, a non-home rule community generally may not establish administrative procedures subject to the Administrative Review Law unless the municipality can point to a similar grant of authority as the one relied upon in *Englum*. *See e.g. Gaffney v. Board of Trustees for the Orland Fire Protection District*, 969 N.E.2d 359, (Ill. 2012). The Orland Fire Protection District established almost identical procedures as those in the *Pederson* case, however, the Court in this case found that as a non-home rule unit of government, the Fire Protection District could not establish their own administrative procedures that would be subject to the Administrative Review law since the Fire Protection District Act did not expressly grant such authority.
- b. *Blanchard v. Berrios*, 72 N.E.3d 309, (Ill. 2016). Cook County passed an ordinance requiring all elected county officers to cooperate with investigations by the Inspector General. The County Assessor argued that the County Board did not have the authority to impose such a duty on an elected official like himself. The Court disagreed, finding the County had the authority pursuant to its home rule status to pass a regulation pertaining to its government and affairs and there was no express preemption forbidding it. The ordinance did not modify any elected official's terms of office, but rather established rules that County officers must comply with.
- c. *Henyard v. Village of Dolton*, 400 Ill.Dec. 271, 48 N.E.3d 220 (Ill. App. Ct. 2016). The Village of Dolton passed an ordinance providing for the recall and replacement of elected officials. The Court found that the ordinance exceeded the Village's home rule powers in that it constituted a change in form of the Village's government without approval from a

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referendum. The ordinance had the effect of turning elected positions into appointed ones, since the mayor would appoint a trustee to serve the remaining term of a recalled trustee.

Attachment: Governance Memorandum (Governance Discussion)

Appendix 2: Illinois Home Rule Municipalities¹

Addison	Crainville	Hoffman Estates	North Chicago	Skokie
Algonquin	Crystal Lake	Homer Glen	North Utica	South Barrington
Alsip	Danville	Hopkins Park	Northbrook*	South Chicago Heights
Alton	Darien	Huntley	Northfield*	South Holland
Arlington Heights	Decatur	Inverness	Northlake	Sparta
Aurora	Deerfield	Jacksonville	O'Fallon	Springfield
Bannockburn	DeKalb	Johnston City	Oak Forest	Standard
Barrington Hills	DePue	Joliet	Oak Lawn	Stickney
Bartlett	Des Plaines	Kankakee	Oak Park	Stone Park
Bartonville	Dolton	Lake Barrington	Oakbrook Terrace	Streamwood
Batavia	Downers Grove	Lake Bluff*	Old Mill Creek	Summit
Bedford Park	DuQuoin	Lake Forest*	Onarga	Sycamore
Belleville	East Dundee	Lake in the Hills	Orland Park	Thornton
Bellwood	East Hazel Crest	Lansing	Oswego	Tilton
Belvidere	East St. Louis	LaSalle	Palatine	Tinley Park
Benton	Edwardsville	Lincolnshire*	Park City	Tuscola
Berkeley	Elgin	Lincolnwood*	Park Forest	University Park
Berwyn	Elk Grove Village	Lockport	Park Ridge	Urbana
Bloomington	Elmhurst	Manhattan	Pekin	Valmeyer
Bloomington	Elmwood Park	Marion	Peoria	Vernon Hills
Bolingbrook	Elwood	Markham	Peoria Heights	Volo
Bridgeview	Evanston	Mascoutah	Peru	Warrenville
Bryant	Evergreen Park	Maywood	Phoenix	Washington
Buffalo Grove	Fairview Heights	McCook	Plainfield	Watseka
Burbank	Flora	McHenry	Posen	Waukegan
Burnham	Forest View	Melrose Park	Prairie Grove	West Chicago
Cahokia	Freeport	Mettawa	Quincy	West City
Calumet City	Galesburg	Midlothian	Rantoul	West Dundee
Calumet Park	Gilman	Moline	River Grove	West Frankfort
Carbon Cliff	Glen Ellyn	Monee	Riverdale	Wheaton
Carbondale	Glendale Heights	Monmouth	Riverwoods	Wheeling
Carlock	Glenview	Morton Grove	Robbins	Williamsville
Carol Stream	Glenwood	Mound City	Rock Island	Willowbrook
Carpentersville	Golf	Mount Prospect	Rockdale	Wilmette*
Cartersville	Granite City	Mount Vernon	Rolling Meadows	Winnetka*
Champaign	Gurnee	Muddy	Romeoville	Woodridge
Channahon	Hanover Park	Mundelein	Rosemont	Woodstock
Chicago	Harvey	Murphysboro	Round Lake Beach	
Chicago Heights	Harwood Heights	Naperville	St. Charles	
Chicago Ridge	Hazel Crest	Naples	Sauget	
Christopher	Herrin	Nauvoo	Schaumburg	
Cicero	Highland Park*	New Lenox	Schiller Park	
Collinsville	Highwood	Niles	Sesser	
Country Club Hills	Hillside	Normal	Sherman	
Countryside	Hodgkins	Norridge	Shorewood	

Denotes Northwest Municipal Conference member community

*Community identified as a Glencoe comparable community used in benchmarking

¹ Source: Illinois Municipal League, accessed online June 20, 2019. <https://legal.iml.org/page.cfm?key=2&parent=1638>

Appendix 3: Survey of Neighboring Municipalities

Municipality	Taxes and Fees	Self-Imposed Property Tax Limitations	Major Policies Implemented after Home Rule
Bannockburn	Food and Beverage: 0.5% Home Rule Sales Tax: 0.5%	Ordinance to abide by PTELL	None identified in survey
Lake Bluff	Home Rule Sales Tax: 1% (current rate) Food and Beverage Tax: 1% Demolition Tax: \$10,000 Automobile Rental Tax: 1%	Ordinance to abide by PTELL	Updated affordable housing plan was not filed with the State (home rule municipalities are exempt)
Lake Forest	Home Rule Sales Tax: 1% (current rate) Real Estate Transfer Tax (approved by separate referendum): \$4 per \$1,000 of full actual consideration (current rate)	Ordinance to abide by PTELL unless a bona fide emergency exists or an advisory referendum determines support for referendum ²	Created affordable housing plan specific to the City's needs; filed with the State
Northfield	Home Rule Sales Tax: 0.75%	Ordinance to abide by PTELL unless a bona fide emergency exists or an advisory referendum determines support for referendum	Administrative adjudication program for municipal code violations Prohibition of Northfield businesses reporting sales tax made in Northfield as made elsewhere Business license regulations Additional zoning, property maintenance and appearance requirements
Winnetka	Stormwater Utility Fee	Maintains a policy of abiding by PTELL	Commercial property maintenance code

² Lake Forest's ordinance was reaffirmed and restated in 2008 and 2013

Appendix 4: Examples of Local Legislative Authority

	Legislative Authority	Home Rule	Non-Home Rule
REGULATORY	Zoning – Authority to create local zoning regulations	Full	Partial (very broad authority)
	Zoning Authority over Libraries, Park Districts and School Districts in the Municipality – Authority to impose municipal zoning regulations on property in the community owned by libraries, park districts and school districts within the corporate limits of the municipality	Full	Partial (consistent with State law)
	Affordable Housing Plan – Authority to determine whether the municipality will create and file local affordable housing plan (municipal attorneys have taken the position that home rule municipalities are not required to file affordable housing plans with the State)	Full	None
	Local Adjudication for Building Code Violations – Authority to create local adjudication program for building code violations (in lieu of circuit court); local adjudicators have binding authority (similar to a judge)	Full	None
	Local Adjudication for Non-Moving Violations - Authority to create local adjudication program for non-moving violations (in lieu of traffic court); local adjudicators make binding decisions (similar to a judge)	Full	Partial (non-binding decisions)
	Rental Housing Regulations – Authority to impose local rental housing ordinances and regulations, including rental housing licensing process, crime-free housing regulations and nuisance regulation	Full	Partial (nuisance regulation only)
	Regulation and Licensing of Short-Term Rentals – Authority to impose regulations on short-term rentals (such as those commonly marketed on websites such as AirBNB and VRBO); ability to create local business license category and accompanying fee	Full	Partial (zoning regulations only)
	Lateral Hiring of Police Officers – Authority to create shortened police officer hiring process for individuals who are already certified law enforcement officers	Full	None
	Authority to Implement Local Laws Differing from or in the Absence of State Laws – Authority to implement local laws, such as: <ul style="list-style-type: none"> • Ban of coal tar-based asphalt products • Prohibition of keeping/raising certain types of animals • Local vicious dog regulations • Permit requirements for fiber optic trenching • Local curfews • Procedure for local recapture agreements • Prosecution of “public indecency” defined in different terms than those in the Illinois Criminal Code • Limitation of severance pay that can be negotiated between a municipality and separating employee • Authority to enter into a contract longer than the term of the Village President • Authority to opt out of Cook County paid sick leave ordinance (applicable to private businesses) • Authority to opt out of Cook County minimum wage ordinance (applicable to private businesses)* • Prohibition of use of hand-held cellular phones while driving* • Prohibition of smoking in public places* <p>*State laws now address these regulations. Prior to the State laws, many home rule municipalities implemented local laws.</p>	Full	None
ECONOMIC	Expenditure of Funds for Economic Development and Use of Financing Programs – Authority to fund programs such as façade improvement grants, small business loans, signage replacement or green infrastructure incentives; authority to utilize financing programs authorized by State law to support economic development	Full	Full

	Sale of Real Estate to Any Purchaser – <i>Authority for municipality to sell real estate to any purchaser</i>	Full (may establish procedures for sale)	Partial (must either sell using public bidding process, or obtain appraisal and sell via real estate agent or auction)
	Economic Incentive Agreements (Sales Tax Rebates) – <i>Authority for municipality to enter into an agreement to rebate any portion of sales tax generated by a commercial development project over a specified period of time, subject to the municipality making findings regarding the project/development</i>	Full (municipality may create its own criteria that demonstrate public purpose)	Partial (findings must be consistent with State law)
FINANCIAL	Property Tax Extension – <i>Home rule municipalities determine annual levy (not subject to cap), non-home rule municipalities subject to Property Tax Extension Limitation Law (tax cap)</i>	Full	Partial (subject to PTELL)
	Local Sales Tax – <i>Tax on tangible personal property sold at retail in the municipality (excluding certain vehicles, food/beverage, medicine and medical products), implemented in 0.25% increments</i>	Partial (per State law)	Partial (up to 1%, limited use after 2020)
	Local Motor Fuel Tax ³ – <i>Tax on fuel sold in the municipality (\$0.01/gallon increments)</i>	Full	None
	Natural Gas Use Tax – <i>Tax on consumption of natural gas used by consumers that is purchased from outside of Illinois</i>	Full	None
	Utility Tax (Natural Gas and Electricity) – <i>Tax on natural gas and electricity consumed by customers in the municipality (up to 5% per therm or kilowatt hour)</i>	Full	Full
	Food and Beverage Tax – <i>Tax on the service of food and beverages (e.g. restaurants)</i>	Full	Partial (places of eating tax up to 1%)
	Package Liquor Tax – <i>Tax on package liquor sales</i>	Full	None
	Amusement/Entertainment Tax – <i>Tax on admission fees and/or ticket sales</i>	Full	None
	Hotel/Motel Tax – <i>Tax on overnight stays in hotels, motels and short-term rentals</i>	Full	Partial (up to 5%, limited use)
	Real Estate Transfer Tax – <i>Authority to implement tax on the sale of real estate with referendum</i>	Partial (referendum required)	None
	Demolition Tax – <i>Tax on demolition of structures (in addition to permit fees)</i>	Full	None
	Impact Fees – <i>Fee paid by developers to municipality for infrastructure improvement costs specifically attributed to the development (e.g., roads, sewers, water distribution, etc.)</i>	Full	None
	Storm Water Utility Fees – <i>User fee charged to sewer customers to support installation and maintenance of storm water infrastructure</i>	Full	Unclear (statute and case law are not clear on authority)

³ The Illinois General Assembly passed a bill (SB 1939) that was signed into law as Public Act 101-0032, that allows non-home rule municipalities in Cook County to implement a local motor fuel tax of up to \$0.03 per gallon.

	Exemption from Unfunded Mandates – <i>Home rule municipalities are exempt from unfunded State mandates unless home rule authority is specifically pre-empted; non-home rule municipalities are subject to unfunded mandates unless specifically exempted</i>	Full (<i>unless specifically pre-empted</i>)	Partial (<i>only if specifically exempted</i>)
	General Obligation Debt Issuance – <i>Authority to issue general obligation debt without referendum</i>	Full	Partial (<i>up to 8.625% of equalized assessed value</i>)