



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1701

Introduced 2/9/2017, by Sen. Karen McConnaughay

SYNOPSIS AS INTRODUCED:

New Act

55 ILCS 5/5-1069	from Ch. 34, par. 5-1069
55 ILCS 5/5-1069.3	
65 ILCS 5/10-4-2	from Ch. 24, par. 10-4-2
65 ILCS 5/10-4-2.3	
30 ILCS 805/8.41 new	

Creates the Home Rule Administrative Procedure Act. Provides that home rule municipalities and home rule counties shall adopt all rules through the procedures required by the Act. Provides for procedures for general rulemaking, implementing discretionary powers, incorporation by reference, emergency rulemaking, and peremptory rulemaking. Provides for the creation of a Designated Review Committee composed of 5 members of the governing board of the home rule unit. Provides for agenda, notice, public hearing, and publication requirements. Limits home rule powers. Defines terms. Amends the Counties Code and Illinois Municipal Code making conforming changes. Amends the State Mandates Act to require implementation without reimbursement. Effective January 1, 2018.

LRB100 11150 AWJ 21442 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Home
5 Rule Administrative Procedure Act.

6 Section 5. Applicability. This Act applies to all home rule
7 units. Beginning January 1, 2018, if this Act conflicts with
8 any other provision of law, this Act controls.

9 Section 10. Definitions. As used in this Act:

10 "Designated Review Committee" or "Committee" means a
11 committee established under Section 85 of this Act.

12 "Home rule unit" means a home rule county or home rule
13 municipality as defined in Section 6 of Article VII of the
14 Illinois Constitution.

15 "Governing body" means the county board or the board of
16 county commissioners of a home rule county, or the council,
17 city council, board of trustees, or other corporate authority
18 of a home rule municipality which exercises the general
19 governmental powers of a home rule county or home rule
20 municipality.

21 "Not for profit corporation" means a corporation organized
22 under the General Not For Profit Corporation Act of 1986 that

1 is not dominant in its field and employs fewer than 50
2 full-time employees or has gross annual sales of less than
3 \$4,000,000. For purposes of a specific rule, a home rule unit
4 may define a not for profit corporation to include employment
5 of 50 or more persons if it finds that such a definition is
6 necessary to adapt the rule to the needs and problems of not
7 for profit corporations.

8 "Person" means any individual, partnership, corporation,
9 association, governmental subdivision, or public or private
10 organization of any character other than a home rule unit.

11 "Rule" means a home rule unit's statement of general
12 applicability that implements, applies, interprets, or
13 prescribes any ordinance, law, or policy, but does not include:
14 (i) statements concerning only the internal management of a
15 home rule unit and not affecting private rights or procedures
16 available to persons or entities subject to the regulation of
17 the home rule unit; (ii) intra-home rule unit memoranda; or
18 (iii) the prescription of standardized forms.

19 "Rulemaking" means the process and required documentation
20 for the adoption of rules by the home rule unit under this Act.

21 "Small business" means a business that is independently
22 owned and operated, not dominant in its field, and employs
23 fewer than 50 full-time employees or has gross annual sales of
24 less than \$4,000,000. For purposes of a specific rule, a home
25 rule unit may define small business to include employment of 50
26 or more persons if it finds that such a definition is necessary

1 to adapt the rule to the needs and problems of small businesses
2 and organizations.

3 Section 15. Rulemaking by home rule units; limitation of
4 home rule powers.

5 (a) All rules of a home rule unit shall be adopted in
6 accordance with this Act.

7 (b) All rulemaking authority exercised on or after the
8 effective date of this Act of the 100th General Assembly is
9 conditioned on the rules being adopted in accordance with all
10 provisions of this Act; any purported rule not so adopted, for
11 whatever reason, including without limitation a decision of a
12 court holding any part of this Act invalid, is unauthorized.

13 (c) A home rule unit may not adopt any rule in a manner
14 inconsistent with this Act. This Act is a limitation under
15 subsection (i) of Section 6 of Article VII of the Illinois
16 Constitution on the concurrent exercise by home rule units of
17 powers and functions exercised by the State.

18 Section 20. Adoption and availability of rules.

19 (a) In addition to other rulemaking requirements imposed by
20 law, each home rule unit shall, on its website, make available
21 for public inspection all rules adopted by the home rule unit
22 in the discharge of its functions.

23 (b) A home rule unit rule is not valid or effective against
24 any person or party, and it may not be invoked by the home rule

1 unit for any purpose, until it has been made available for
2 public inspection and publication as required by this Act.
3 However, a home rule unit shall not assert the invalidity of a
4 rule that it has adopted under this Act when an opposing party
5 has relied upon the rule.

6 Section 25. Required rules; required documentation.

7 (a) A home rule unit shall maintain as rules the following:

8 (1) A current description of the home rule unit's
9 organization with necessary charts depicting that
10 organization.

11 (2) The current procedures by which the public can
12 obtain information or make submissions or requests on
13 subjects, programs, and activities of the home rule unit.
14 Requests for copies of rules shall not be deemed Freedom of
15 Information Act requests unless so labeled by the
16 requester.

17 (3) Tables of contents, indices, reference tables, and
18 other materials to aid users in finding and using the home
19 rule unit's collection of rules currently in force.

20 (4) A current description of the home rule unit's
21 rulemaking procedures with necessary flow charts depicting
22 those procedures.

23 (5) Any rules adopted under this Section in accordance
24 with Section 75 of this Act.

25 The rules required by this subsection may be adopted,

1 amended, or repealed by publishing a copy of the rules on the
2 home rule unit's website notwithstanding any other provision or
3 requirement of this Act.

4 (b) Background text in rulemaking documentation shall
5 match the current text of the rules of the home rule unit. As
6 used in this subsection, "background text" means existing text
7 of the existing rules of the home rule unit that is part of a
8 rulemaking but is not being amended by the rulemaking.

9 (c) No material that was originally proposed in one
10 rulemaking may be combined with another proposed rulemaking
11 that was initially published without that material. However,
12 this does not preclude separate rulemakings from being combined
13 for publication at the time of adoption.

14 (d) The following documentation is required when
15 rulemaking:

16 (1) At the time of original proposal, rulemaking
17 documentation must consist of a notice page and new,
18 amendatory, or repealed text. New, repealed, and
19 amendatory text must be depicted in the manner required by
20 this Act. Amendatory rulemakings must indicate text
21 deletion by striking through all text that is to be omitted
22 and must indicate text addition by underlining all new
23 text.

24 (2) At the time of adoption, documentation must also
25 include pages indicating the text of the new rule, without
26 striking and underlining, for inclusion in the official

1 records of the home rule unit and the publication required
2 under Section 70 of this Act.

3 (3) For a required rulemaking adopted under this
4 Section 25, an emergency rulemaking under Section 50 of
5 this Act, or a peremptory rulemaking under Section 55 of
6 this Act, the documentation requirements of paragraphs (1)
7 and (2) of this subsection (d) apply at the time of
8 adoption.

9 Section 30. Implementing discretionary powers. Each rule
10 that implements a discretionary power to be exercised by a home
11 rule unit shall include the standards by which the home rule
12 unit shall exercise the power. The standards shall be stated as
13 precisely and clearly as practicable under the conditions to
14 inform fully those persons affected.

15 Section 35. Regulatory flexibility. When a home rule unit
16 proposes a new rule or an amendment to an existing rule that
17 may have an impact on small businesses or not for profit
18 corporations, the home rule unit shall do each of the
19 following:

20 (1) The home rule unit shall consider each of the
21 following methods for reducing the impact of the rulemaking
22 on small businesses or not for profit corporations by
23 utilizing one or more of the following methods if it finds
24 that the methods are legal and feasible in meeting the

1 statutory objectives that are the basis of the proposed
2 rulemaking:

3 (A) Establish less stringent compliance or
4 reporting requirements in the rule for small
5 businesses or not for profit corporations.

6 (B) Establish less stringent schedules or
7 deadlines in the rule for compliance or reporting
8 requirements for small businesses or not for profit
9 corporations.

10 (C) Consolidate or simplify the rule's compliance
11 or reporting requirements for small businesses or not
12 for profit corporations.

13 (D) Establish performance standards to replace
14 design or operational standards in the rule for small
15 businesses or not for profit corporations.

16 (E) Exempt small businesses or not for profit
17 corporations from any or all requirements of the rule.

18 (2) Before or during the notice period required under
19 subsection (b) of Section 45 of this Act, the home rule
20 unit shall provide an opportunity for small businesses or
21 not for profit corporations to participate in the
22 rulemaking process and shall utilize one or more of the
23 following techniques which are in addition to other
24 rulemaking requirements imposed by this Act or by any other
25 Act:

26 (A) The inclusion in any advance notice of possible

1 rulemaking of a statement that the rule may have an
2 impact on small businesses or not for profit
3 corporations.

4 (B) The publication of a notice of rulemaking in
5 publications likely to be obtained by small businesses
6 or not for profit corporations.

7 (C) The direct notification of interested small
8 businesses or not for profit corporations.

9 (D) The conduct of public hearings concerning the
10 impact of the rule on small businesses or not for
11 profit corporations.

12 (E) The use of special hearing or comment
13 procedures to reduce the cost or complexity of
14 participation in the rulemaking by small businesses or
15 not for profit corporations.

16 (3) Prior to the filing for publication of any proposed
17 rule or amendment that may have an adverse impact on small
18 businesses, a home rule unit must prepare an economic
19 impact analysis which shall include all of the following:

20 (A) An identification of the types and estimate of
21 the number of the small businesses subject to the
22 proposed rule or amendment.

23 (B) The projected reporting, recordkeeping, and
24 other administrative costs required for compliance
25 with the proposed rule or amendment, including the type
26 of professional skills necessary for preparation of

1 the report or record.

2 (C) A statement of the probable positive or
3 negative economic effect on impacted small businesses.

4 (D) A description of any less intrusive or less
5 costly alternative methods of achieving the purpose of
6 the proposed rule or amendment. The alternatives must
7 be consistent with the stated objectives of the
8 applicable statutes and the proposed rulemaking.

9 Section 40. Procedure for rulemaking.

10 (a) Before the adoption, amendment, or repeal of any rule,
11 each home rule unit shall accomplish the actions required by
12 Section 45, 50, or 55 of this Act, whichever is applicable.

13 (b) No action by any home rule unit to adopt, amend, or
14 repeal a rule after the effective date of this Act of the 100th
15 General Assembly shall be valid unless taken in compliance with
16 this Section. A proceeding to contest any rule on the ground of
17 non-compliance with the procedural requirements of this
18 Section must be commenced within 2 years from the effective
19 date of the rule.

20 (c) The rulemaking procedures of this Act do not apply to a
21 matter relating solely to a home rule unit's management or
22 personnel practices or to public property, loans, or contracts.

23 Section 45. General rulemaking.

24 (a) In all rulemaking to which Sections 50 and 55 of this

1 Act do not apply, a home rule unit shall comply with this
2 Section.

3 (b) A home rule unit shall give at least 45 days' notice of
4 its intended action to the general public. This first notice
5 period shall commence on the first day the notice is published
6 on the website maintained by the home rule unit. The first
7 notice shall include all the following:

8 (1) The text of the proposed rule, the old and new
9 materials of a proposed amendment, or the text of the
10 provision to be repealed.

11 (2) The specific authority including any ordinance of
12 the home rule unit and statutory citation upon which the
13 proposed rule, the proposed amendment to a rule, or the
14 proposed repeal of a rule is based and by which it is
15 authorized.

16 (3) A complete description of the subjects and issues
17 involved.

18 (4) A descriptive title or other description of any
19 published study or research report used in developing the
20 rule, the identity of the person who performed the study,
21 and a description of where the public may obtain a copy of
22 any such study or research report. If the study was
23 performed by a home rule unit or by a person or entity that
24 contracted with the home rule unit for the performance of
25 the study, the home rule unit shall also make copies of the
26 underlying data available to members of the public upon

1 request if the data are not protected from disclosure under
2 the Freedom of Information Act.

3 (5) For all proposed rules and proposed amendments to
4 rules, an initial regulatory flexibility analysis
5 containing a description of the types of small businesses
6 subject to the rule; a brief description of the proposed
7 reporting, bookkeeping, and other procedures required for
8 compliance with the rule; and a description of the types of
9 professional skills necessary for compliance.

10 (6) The time, place, and manner in which interested
11 persons may present their views and comments concerning the
12 proposed rulemaking.

13 During the first notice period, the home rule unit shall
14 accept from any interested persons data, views, arguments, or
15 comments. These may, in the discretion of the home rule unit,
16 be submitted either orally or in writing or both. The notice
17 published on the home rule unit's website shall indicate the
18 manner selected by the home rule unit for the submissions. The
19 home rule unit shall consider all submissions received.

20 A home rule unit shall hold a public hearing on the
21 proposed rulemaking during the first notice period if: (i)
22 during the first notice period, the home rule unit finds that a
23 public hearing would facilitate the submission of views and
24 comments that might not otherwise be submitted; or (ii) the
25 home rule unit receives a request for a public hearing, within
26 the first 14 days after publication of the notice of proposed

1 rulemaking, from 25 interested persons, an association
2 representing at least 100 interested persons, the mayor or
3 other chief executive officer or county board president of the
4 home rule unit, or a unit of local government that may be
5 affected. At the public hearing, the home rule unit shall allow
6 interested persons to present views and comments on the
7 proposed rulemaking. A public hearing in response to a request
8 for a hearing may not be held less than 20 days after the
9 publication of the notice of proposed rulemaking unless notice
10 of the public hearing is included in the notice of proposed
11 rulemaking. A public hearing on proposed rulemaking may not be
12 held less than 5 days before submission of the notice required
13 under subsection (c) of this Section to the Designated Review
14 Committee of the home rule unit. Each home rule unit may
15 prescribe reasonable rules for the conduct of public hearings
16 on proposed rulemaking to prevent undue repetition at the
17 hearings. The hearings must be open to the public and recorded
18 by stenographic or electronic means. At least one home rule
19 unit representative shall be present during the hearing who is
20 qualified to respond to general questions from the public
21 regarding the home rule unit's proposal and the rulemaking
22 process.

23 (c) A home rule unit shall provide additional notice of the
24 proposed rulemaking to the Designated Review Committee. The
25 period commencing on the day written notice is received by the
26 Committee shall be known as the second notice period and shall

1 expire 45 days after the written notice is received by the
2 Committee unless, before that time, the home rule unit and the
3 Committee have agreed to extend the second notice period beyond
4 45 days for a period not to exceed an additional 45 days or
5 unless the home rule unit has received a statement of objection
6 from the Committee or notification from the Committee that no
7 objection will be issued. The written notice to the Committee
8 shall include: (i) the text and location of any changes made to
9 the proposed rulemaking during the first notice period; (ii)
10 for all proposed rules and proposed amendments to rules, a
11 final regulatory flexibility analysis containing a summary of
12 issues raised by small businesses during the first notice
13 period and a description of actions taken on any alternatives
14 to the proposed rule suggested by small businesses during the
15 first notice period, including reasons for rejecting any
16 alternatives not utilized; and (iii) an analysis of the
17 economic and budgetary effects of the proposed rulemaking.
18 After commencement of the second notice period, no substantive
19 change may be made to a proposed rulemaking unless it is made
20 in response to an objection or suggestion of the Designated
21 Review Committee. The home rule unit shall also send a copy of
22 the final regulatory flexibility analysis to each small
23 business that has presented views or comments on the proposed
24 rulemaking during the first notice period and to any other
25 interested person who requests a copy. The home rule unit may
26 charge a reasonable fee for providing the copies to cover

1 postage and handling costs.

2 (d) After the expiration of the second notice period, after
3 notification from the Designated Review Committee that no
4 objection will be issued, or after a response by the home rule
5 unit to a statement of objections issued by the Committee,
6 whichever is applicable, the home rule unit shall publish,
7 under Section 70 of this Act, a copy of each rule,
8 modification, or repeal of any rule adopted by it. Each rule
9 adopted under this Section is effective upon publishing unless
10 a later effective date is required by ordinance or statute or
11 is specified in the rulemaking.

12 (e) No rule or modification or repeal of any rule may be
13 adopted, or published under Section 70 of this Act, more than
14 one year after the date the first notice period for the
15 rulemaking under subsection (b) of this Section commenced.

16 Section 50. Emergency rulemaking.

17 (a) For purposes of this Act, "emergency" means the
18 existence of any situation that any home rule unit finds
19 reasonably constitutes a threat to the public interest, safety,
20 or welfare.

21 (b) If a home rule unit finds that an emergency exists that
22 requires adoption of a rule upon fewer days notice than is
23 required by Section 45 of this Act and states in writing its
24 reasons for that finding, the home rule unit may adopt an
25 emergency rule without prior notice or hearing upon filing a

1 notice of emergency rulemaking on its website under Section 70
2 of this Act. The notice shall include the text of the emergency
3 rule. Consent orders or other court orders adopting settlements
4 negotiated by a home rule unit may be adopted under this
5 Section. Subject to applicable constitutional or statutory
6 provisions, an emergency rule becomes effective immediately
7 upon publishing under Section 70 of this Act or at a stated
8 date less than 10 days after publication. The home rule unit's
9 finding and a statement of the specific reasons for the finding
10 shall be published with the rule. The home rule unit shall take
11 reasonable and appropriate measures to make emergency rules
12 known to the persons who may be affected by them.

13 (c) An emergency rule may be effective for a period of not
14 longer than 150 days, but the home rule unit's authority to
15 adopt an identical rule under Section 45 of this Act is not
16 precluded. No emergency rule may be adopted more than once in
17 any 24-month period. Two or more emergency rules having
18 substantially the same purpose and effect shall be deemed to be
19 a single rule for purposes of this Section.

20 Section 55. Peremptory rulemaking.

21 (a) For purposes of this Act, "peremptory rulemaking" means
22 any rulemaking that is required as a result of federal or State
23 law, federal or State rules and regulations, an order of a
24 court, under conditions that preclude compliance with the
25 general rulemaking requirements imposed by Section 45 of this

1 Act and that preclude the exercise of discretion by the home
2 rule unit as to the content of the rule it is required to
3 adopt.

4 (b) If a home rule unit finds that peremptory rulemaking is
5 necessary and states in writing its reasons for that finding,
6 the home rule unit may adopt peremptory rulemaking upon
7 publishing a notice of rulemaking on its website. A rule
8 adopted under the peremptory rulemaking provisions of this
9 Section becomes effective immediately upon publication or at a
10 date required or authorized by the relevant federal or State
11 law, federal or State rules and regulations, or court order, as
12 stated in the notice of rulemaking. Notice of rulemaking under
13 this Section shall specifically refer to the appropriate State
14 or federal court order or federal law, rules, and regulations.
15 The home rule unit shall publish the notice of peremptory
16 rulemaking within 30 days after a change in rules is required.

17 (c) Peremptory rulemaking shall not be used to implement
18 consent orders or other court orders adopting settlements
19 negotiated by the home rule unit.

20 Section 60. Automatic repeal of rules. A rule may provide
21 for its automatic repeal on a date specified in the rule. The
22 repeal shall be effective on the date specified, provided that
23 notice of the repeal is published on the home rule unit's
24 website not less than 30 nor more than 60 days before the
25 effective date of the repeal. This Section does not apply to

1 any rules published under Section 50 of this Act.

2 Section 65. Regulatory agenda. A home rule unit shall
3 publish on its website by January 1 and July 1 of each year a
4 regulatory agenda to elicit public comments concerning any rule
5 that the home rule unit is considering proposing but for which
6 no notice of proposed rulemaking activity has been published. A
7 regulatory agenda shall consist of summaries of those rules.
8 Each summary shall, in less than 2,000 words, contain the
9 following when practicable:

10 (1) A description of the rule.

11 (2) The statutory authority the home rule unit is
12 exercising.

13 (3) A schedule of the dates for any hearings, meetings,
14 or other opportunities for public participation in the
15 development of the rule.

16 (4) The date the home rule unit anticipates submitting
17 a notice of proposed rulemaking activity, if known.

18 (5) The name, address, and telephone number of the home
19 rule unit representative who is knowledgeable about the
20 rule, from whom any information may be obtained, and to
21 whom written comments may be submitted concerning the rule.

22 (6) A statement whether the rule will affect small
23 businesses or not for profit corporations.

24 (7) Any other information that may serve the public
25 interest.

1 Nothing in this Section shall preclude a home rule unit
2 from adopting a rule that has not been summarized in a
3 regulatory agenda or from adopting a rule different than one
4 summarized in a regulatory agenda if in the judgment of the
5 mayor, president, chair, or other chief executive officer of
6 the governing body of the home rule unit finds that it is
7 necessary. If a home rule unit finds that a situation exists
8 that requires adoption of a rule that was not summarized on
9 either of the 2 most recent regulatory agendas, it shall state
10 its reasons in writing together with the facts that form their
11 basis upon publishing the notice of proposed rulemaking under
12 Section 45 of this Act. Nothing in this Section shall require a
13 home rule unit to adopt a rule summarized in a regulatory
14 agenda.

15 Section 70. Publishing of rules. No later than July 1,
16 2018, a home rule unit shall publish on its website a copy of
17 each rule adopted in the home rule unit on or before July 1,
18 2018, and shall publish each rule adopted after that date as
19 required by this Act.

20 Section 75. Incorporation by reference.

21 (a) A home rule unit may incorporate by reference, in its
22 rules adopted under Section 40 of this Act, rules, regulations,
23 standards, and guidelines of a an agency of the United States
24 or a nationally or state recognized organization or association

1 without publishing the incorporated material in full. The
2 reference in the rules must fully identify the incorporated
3 matter by publisher address and date in order to specify how a
4 copy of the material may be obtained and must state that the
5 rule, regulation, standard, or guideline does not include any
6 later amendments or editions. A home rule unit may incorporate
7 by reference these matters in its rules only if the home rule
8 unit, organization, or association originally issuing the
9 matter makes copies readily available to the public.

10 (b) The home rule unit adopting a rule, regulation,
11 standard, or guideline under this Section shall maintain a copy
12 of the referenced rule, regulation, standard, or guideline in
13 at least one of its principal offices and shall make it
14 available to the public upon request for inspection and copying
15 at no more than cost. Requests for copies of materials
16 incorporated by reference shall not be deemed Freedom of
17 Information Act requests unless so labeled by the requester.
18 The home rule unit shall designate by rule the location at
19 which incorporated materials are maintained and made available
20 to the public for inspection and copying. These rules may be
21 adopted under the procedures in Section 25 of this Act. In
22 addition, the home rule unit may include the designation of the
23 location of incorporated materials in a rulemaking under
24 Section 40 of this Act, but emergency and preemptory rulemaking
25 procedures may not be used solely for this purpose.

1 Section 80. Publication of rules. The publication of a rule
2 on the home rule unit's website as an adopted rule shall
3 establish a rebuttable presumption that the rule was duly
4 adopted. Judicial or official notice shall be taken of the text
5 of each rule published on the home rule unit's website.

6 Section 85. Designated Review Committee.

7 (a) A home rule unit shall establish a Designated Review
8 Committee. The Committee shall consist of 5 members of the
9 governing body of the home rule unit who shall be appointed by
10 the governing body. The political party representation of the
11 Designated Review Committee shall, as closely as possible,
12 mirror that of the appointing body. Appointments made under
13 this Section are for a term of 2 years.

14 (b) The agenda of each meeting of the Committee shall be
15 published at least 5 days before the meeting on the home rule
16 unit's website. The provisions of this subsection shall not
17 prohibit the Committee from acting upon an item that was not
18 contained in the published agenda.

19 (c) The Committee may charge reasonable fees for copies of
20 documents or publications to cover the cost of copying or
21 printing.

22 Section 90. Powers of the Designated Review Committee. A
23 Designated Review Committee shall have the following powers
24 under this Act:

1 (1) The function of the Committee shall be the
2 promotion of adequate and proper rules by a home rule unit
3 and an understanding on the part of the public respecting
4 those rules. This function shall be advisory only.

5 (2) Failure of the Committee to object to any proposed
6 rule, amendment, or repealer or any existing rule shall not
7 be construed as implying direct or indirect approval of the
8 rule or proposed rule, amendment, or repealer by the
9 Committee.

10 Section 95. Responsibilities of the Designated Review
11 Committee with respect to proposed rules, amendments, or
12 repealers.

13 (a) The Committee shall examine any proposed rule,
14 amendment to a rule, and repeal of a rule to determine whether
15 the proposed rule, amendment to a rule, or repeal of a rule is
16 within the statutory authority upon which it is based; whether
17 the rule, amendment to a rule, or repeal of a rule is in proper
18 form; and whether the notice was given before its adoption,
19 amendment, or repeal and was sufficient to give adequate notice
20 of the purpose and effect of the rule, amendment, or repeal. In
21 addition, the Committee shall consider whether the home rule
22 unit has considered alternatives to the rule that are
23 consistent with the stated objectives of both the applicable
24 statutes and regulations and whether the rule is designed to
25 minimize economic impact on small businesses.

1 (b) If the Committee objects to a proposed rule, amendment
2 to a rule, or repeal of a rule, it shall certify the fact to the
3 home rule unit and include with the certification a statement
4 of its specific objections.

5 (c) If within the second notice period the Committee
6 certifies its objections to the home rule unit, then that home
7 rule unit shall do one of the following within 90 days after
8 receiving the statement of objection:

9 (1) modify the proposed rule, amendment, or repealer to
10 meet the Committee's objections;

11 (2) withdraw the proposed rule, amendment, or repealer
12 in its entirety; or

13 (3) refuse to modify or withdraw the proposed rule,
14 amendment, or repealer.

15 (d) If a home rule unit elects to modify a proposed rule,
16 amendment, or repealer to meet the Committee's objections, it
17 shall make those modifications that are necessary to meet the
18 objections and shall resubmit the rule, amendment, or repealer
19 to the Committee. In addition, the home rule unit shall publish
20 a notice of its election to modify the proposed rule,
21 amendment, or repealer to meet the Committee's objections on
22 the home rule unit's website, but the home rule unit shall not
23 be required to conduct a public hearing. If the Committee
24 determines that the modifications do not remedy the Committee's
25 objections, it shall so notify the home rule unit in writing
26 and a copy of that notification shall be published on the home

1 rule unit's website. In addition, the Committee may recommend
2 legislative action as provided in subsection (g) of this
3 Section for home rule unit refusals.

4 (e) If a home rule unit elects to withdraw a proposed rule,
5 amendment, or repealer as a result of the Committee's
6 objections, it shall notify the Committee in writing of its
7 election and shall publish a notice of the withdrawal on the
8 home rule unit's website.

9 (f) Failure of a home rule unit to respond to the
10 Committee's objections to a proposed rule, amendment, or
11 repealer within the time prescribed in subsection (c) of this
12 Section shall constitute withdrawal of the proposed rule,
13 amendment, or repealer in its entirety. The Committee shall
14 publish a notice to that effect on the home rule unit's
15 website.

16 (g) If a home rule unit refuses to modify or withdraw the
17 proposed rule, amendment, or repealer to remedy an objection
18 stated by the Committee, it shall notify the Committee in
19 writing of its refusal and shall publish a notice of refusal on
20 the home rule unit's website with 14 calendar days of the date
21 of the refusal. If the Committee decides to recommend
22 legislative action in response to a home rule unit refusal,
23 then the Committee shall have drafted and introduced into the
24 governing body of the home rule unit appropriate legislation to
25 implement the recommendations of the Committee.

26 (h) No rule, amendment, or repeal of a rule shall be

1 published on the home rule unit website as adopted until after
2 the home rule unit has responded to the objections of the
3 Committee as provided in this Section.

4 Section 100. Responsibilities of the Designated Review
5 Committee with respect to emergency, peremptory, and other
6 existing rules.

7 (a) The Committee may examine any rule to determine whether
8 the rule is within the statutory authority upon which it is
9 based and whether the rule is in proper form.

10 (b) If the Committee objects to a rule, it shall, within 5
11 days of the objection, certify the fact to the adopting home
12 rule unit and include within the certification a statement of
13 its specific objections.

14 (c) Within 90 days after receiving the certification, the
15 home rule unit shall do one of the following:

16 (1) notify the Committee that it has elected to amend
17 the rule to meet the Committee's objection;

18 (2) notify the Committee that it has elected to repeal
19 the rule; or

20 (3) notify the Committee that it refuses to amend or
21 repeal the rule.

22 (d) If the home rule unit elects to amend a rule to meet
23 the Committee's objections, it shall notify the Committee in
24 writing and shall initiate rulemaking procedures for that
25 purpose by giving notice as required by Section 40 of this Act.

1 The Committee shall give priority to rules so amended when
2 setting its agenda.

3 (e) If the home rule unit elects to repeal a rule as a
4 result of the Committee's objections, it shall notify the
5 Committee in writing of its election and shall initiate
6 rulemaking procedures for that purpose by giving notice as
7 required by Section 40 of this Act.

8 (f) If the home rule unit elects to amend or repeal a rule
9 as a result of the Committee's objections, it shall complete
10 the process within 180 days after giving notice on the home
11 rule unit's website.

12 (g) Failure of the home rule unit to respond to the
13 Committee's objections to a rule within the time prescribed in
14 subsection (c) of this Section shall constitute a refusal to
15 amend or repeal the rule.

16 (h) If the home rule unit refuses to amend or repeal a rule
17 to remedy an objection stated by the Committee, it shall notify
18 the Committee in writing of its refusal and shall publish a
19 notice of refusal on the home rule unit's website. The notice
20 shall be published within 14 calendar days.

21 Section 105. Request for adoption of rules.

22 (a) A home rule unit shall, in accordance with Section 40
23 of this Act, adopt rules that implement recently enacted
24 legislation in a timely and expeditious manner.

25 (b) Any interested person may request a home rule unit to

1 adopt, amend, or repeal a rule. A home rule unit shall
2 prescribe by rule the procedure for consideration and
3 disposition of the person's request. If, within 30 days after
4 submission of a request, the home rule unit has not initiated
5 rulemaking proceedings in accordance with Section 40 of this
6 Act, the request shall be deemed to have been denied.

7 Section 110. Website. If a home rule unit does not have a
8 website, it shall create and maintain a website that contains,
9 at a minimum, the information required by this Act.

10 Section 800. The Counties Code is amended by changing
11 Sections 5-1069 and 5-1069.3 as follows:

12 (55 ILCS 5/5-1069) (from Ch. 34, par. 5-1069)

13 Sec. 5-1069. Group life, health, accident, hospital, and
14 medical insurance.

15 (a) The county board of any county may arrange to provide,
16 for the benefit of employees of the county, group life, health,
17 accident, hospital, and medical insurance, or any one or any
18 combination of those types of insurance, or the county board
19 may self-insure, for the benefit of its employees, all or a
20 portion of the employees' group life, health, accident,
21 hospital, and medical insurance, or any one or any combination
22 of those types of insurance, including a combination of
23 self-insurance and other types of insurance authorized by this

1 Section, provided that the county board complies with all other
2 requirements of this Section. The insurance may include
3 provision for employees who rely on treatment by prayer or
4 spiritual means alone for healing in accordance with the tenets
5 and practice of a well recognized religious denomination. The
6 county board may provide for payment by the county of a portion
7 or all of the premium or charge for the insurance with the
8 employee paying the balance of the premium or charge, if any.
9 If the county board undertakes a plan under which the county
10 pays only a portion of the premium or charge, the county board
11 shall provide for withholding and deducting from the
12 compensation of those employees who consent to join the plan
13 the balance of the premium or charge for the insurance.

14 (b) If the county board does not provide for self-insurance
15 or for a plan under which the county pays a portion or all of
16 the premium or charge for a group insurance plan, the county
17 board may provide for withholding and deducting from the
18 compensation of those employees who consent thereto the total
19 premium or charge for any group life, health, accident,
20 hospital, and medical insurance.

21 (c) The county board may exercise the powers granted in
22 this Section only if it provides for self-insurance or, where
23 it makes arrangements to provide group insurance through an
24 insurance carrier, if the kinds of group insurance are obtained
25 from an insurance company authorized to do business in the
26 State of Illinois. The county board may enact an ordinance

1 prescribing the method of operation of the insurance program.

2 (d) If a county, including a home rule county, is a
3 self-insurer for purposes of providing health insurance
4 coverage for its employees, the insurance coverage shall
5 include screening by low-dose mammography for all women 35
6 years of age or older for the presence of occult breast cancer
7 unless the county elects to provide mammograms itself under
8 Section 5-1069.1. The coverage shall be as follows:

9 (1) A baseline mammogram for women 35 to 39 years of
10 age.

11 (2) An annual mammogram for women 40 years of age or
12 older.

13 (3) A mammogram at the age and intervals considered
14 medically necessary by the woman's health care provider for
15 women under 40 years of age and having a family history of
16 breast cancer, prior personal history of breast cancer,
17 positive genetic testing, or other risk factors.

18 (4) A comprehensive ultrasound screening of an entire
19 breast or breasts if a mammogram demonstrates
20 heterogeneous or dense breast tissue, when medically
21 necessary as determined by a physician licensed to practice
22 medicine in all of its branches, advanced practice nurse,
23 or physician assistant.

24 For purposes of this subsection, "low-dose mammography"
25 means the x-ray examination of the breast using equipment
26 dedicated specifically for mammography, including the x-ray

1 tube, filter, compression device, and image receptor, with an
2 average radiation exposure delivery of less than one rad per
3 breast for 2 views of an average size breast. The term also
4 includes digital mammography.

5 (d-5) Coverage as described by subsection (d) shall be
6 provided at no cost to the insured and shall not be applied to
7 an annual or lifetime maximum benefit.

8 (d-10) When health care services are available through
9 contracted providers and a person does not comply with plan
10 provisions specific to the use of contracted providers, the
11 requirements of subsection (d-5) are not applicable. When a
12 person does not comply with plan provisions specific to the use
13 of contracted providers, plan provisions specific to the use of
14 non-contracted providers must be applied without distinction
15 for coverage required by this Section and shall be at least as
16 favorable as for other radiological examinations covered by the
17 policy or contract.

18 (d-15) If a county, including a home rule county, is a
19 self-insurer for purposes of providing health insurance
20 coverage for its employees, the insurance coverage shall
21 include mastectomy coverage, which includes coverage for
22 prosthetic devices or reconstructive surgery incident to the
23 mastectomy. Coverage for breast reconstruction in connection
24 with a mastectomy shall include:

25 (1) reconstruction of the breast upon which the
26 mastectomy has been performed;

1 (2) surgery and reconstruction of the other breast to
2 produce a symmetrical appearance; and

3 (3) prostheses and treatment for physical
4 complications at all stages of mastectomy, including
5 lymphedemas.

6 Care shall be determined in consultation with the attending
7 physician and the patient. The offered coverage for prosthetic
8 devices and reconstructive surgery shall be subject to the
9 deductible and coinsurance conditions applied to the
10 mastectomy, and all other terms and conditions applicable to
11 other benefits. When a mastectomy is performed and there is no
12 evidence of malignancy then the offered coverage may be limited
13 to the provision of prosthetic devices and reconstructive
14 surgery to within 2 years after the date of the mastectomy. As
15 used in this Section, "mastectomy" means the removal of all or
16 part of the breast for medically necessary reasons, as
17 determined by a licensed physician.

18 A county, including a home rule county, that is a
19 self-insurer for purposes of providing health insurance
20 coverage for its employees, may not penalize or reduce or limit
21 the reimbursement of an attending provider or provide
22 incentives (monetary or otherwise) to an attending provider to
23 induce the provider to provide care to an insured in a manner
24 inconsistent with this Section.

25 (d-20) The requirement that mammograms be included in
26 health insurance coverage as provided in subsections (d)

1 through (d-15) is an exclusive power and function of the State
2 and is a denial and limitation under Article VII, Section 6,
3 subsection (h) of the Illinois Constitution of home rule county
4 powers. A home rule county to which subsections (d) through
5 (d-15) apply must comply with every provision of those
6 subsections.

7 (e) The term "employees" as used in this Section includes
8 elected or appointed officials but does not include temporary
9 employees.

10 (f) The county board may, by ordinance, arrange to provide
11 group life, health, accident, hospital, and medical insurance,
12 or any one or a combination of those types of insurance, under
13 this Section to retired former employees and retired former
14 elected or appointed officials of the county.

15 (g) Notwithstanding the Home Rule Administrative Procedure
16 Act, rulemaking ~~Rulemaking~~ authority to implement Public Act
17 95-1045 ~~this amendatory Act of the 95th General Assembly,~~ if
18 any, is conditioned on the rules being adopted in accordance
19 with all provisions of the Illinois Administrative Procedure
20 Act and all rules and procedures of the Joint Committee on
21 Administrative Rules; any purported rule not so adopted, for
22 whatever reason, is unauthorized.

23 (Source: P.A. 99-581, eff. 1-1-17.)

24 (55 ILCS 5/5-1069.3)

25 Sec. 5-1069.3. Required health benefits. If a county,

1 including a home rule county, is a self-insurer for purposes of
2 providing health insurance coverage for its employees, the
3 coverage shall include coverage for the post-mastectomy care
4 benefits required to be covered by a policy of accident and
5 health insurance under Section 356t and the coverage required
6 under Sections 356g, 356g.5, 356g.5-1, 356u, 356w, 356x,
7 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,
8 356z.14, 356z.15, and 356z.22 of the Illinois Insurance Code.
9 The coverage shall comply with Sections 155.22a, 355b, 356z.19,
10 and 370c of the Illinois Insurance Code. The requirement that
11 health benefits be covered as provided in this Section is an
12 exclusive power and function of the State and is a denial and
13 limitation under Article VII, Section 6, subsection (h) of the
14 Illinois Constitution. A home rule county to which this Section
15 applies must comply with every provision of this Section.

16 Notwithstanding the Home Rule Administrative Procedure
17 Act, rulemaking ~~Rulemaking~~ authority to implement Public Act
18 95-1045, if any, is conditioned on the rules being adopted in
19 accordance with all provisions of the Illinois Administrative
20 Procedure Act and all rules and procedures of the Joint
21 Committee on Administrative Rules; any purported rule not so
22 adopted, for whatever reason, is unauthorized.

23 (Source: P.A. 98-189, eff. 1-1-14; 98-1091, eff. 1-1-15;
24 99-480, eff. 9-9-15.)

25 Section 805. The Illinois Municipal Code is amended by

1 changing Sections 10-4-2 and 10-4-2.3 as follows:

2 (65 ILCS 5/10-4-2) (from Ch. 24, par. 10-4-2)

3 Sec. 10-4-2. Group insurance.

4 (a) The corporate authorities of any municipality may
5 arrange to provide, for the benefit of employees of the
6 municipality, group life, health, accident, hospital, and
7 medical insurance, or any one or any combination of those types
8 of insurance, and may arrange to provide that insurance for the
9 benefit of the spouses or dependents of those employees. The
10 insurance may include provision for employees or other insured
11 persons who rely on treatment by prayer or spiritual means
12 alone for healing in accordance with the tenets and practice of
13 a well recognized religious denomination. The corporate
14 authorities may provide for payment by the municipality of a
15 portion of the premium or charge for the insurance with the
16 employee paying the balance of the premium or charge. If the
17 corporate authorities undertake a plan under which the
18 municipality pays a portion of the premium or charge, the
19 corporate authorities shall provide for withholding and
20 deducting from the compensation of those municipal employees
21 who consent to join the plan the balance of the premium or
22 charge for the insurance.

23 (b) If the corporate authorities do not provide for a plan
24 under which the municipality pays a portion of the premium or
25 charge for a group insurance plan, the corporate authorities

1 may provide for withholding and deducting from the compensation
2 of those employees who consent thereto the premium or charge
3 for any group life, health, accident, hospital, and medical
4 insurance.

5 (c) The corporate authorities may exercise the powers
6 granted in this Section only if the kinds of group insurance
7 are obtained from an insurance company authorized to do
8 business in the State of Illinois, or are obtained through an
9 intergovernmental joint self-insurance pool as authorized
10 under the Intergovernmental Cooperation Act. The corporate
11 authorities may enact an ordinance prescribing the method of
12 operation of the insurance program.

13 (d) If a municipality, including a home rule municipality,
14 is a self-insurer for purposes of providing health insurance
15 coverage for its employees, the insurance coverage shall
16 include screening by low-dose mammography for all women 35
17 years of age or older for the presence of occult breast cancer
18 unless the municipality elects to provide mammograms itself
19 under Section 10-4-2.1. The coverage shall be as follows:

20 (1) A baseline mammogram for women 35 to 39 years of
21 age.

22 (2) An annual mammogram for women 40 years of age or
23 older.

24 (3) A mammogram at the age and intervals considered
25 medically necessary by the woman's health care provider for
26 women under 40 years of age and having a family history of

1 breast cancer, prior personal history of breast cancer,
2 positive genetic testing, or other risk factors.

3 (4) A comprehensive ultrasound screening of an entire
4 breast or breasts if a mammogram demonstrates
5 heterogeneous or dense breast tissue, when medically
6 necessary as determined by a physician licensed to practice
7 medicine in all of its branches.

8 For purposes of this subsection, "low-dose mammography"
9 means the x-ray examination of the breast using equipment
10 dedicated specifically for mammography, including the x-ray
11 tube, filter, compression device, and image receptor, with an
12 average radiation exposure delivery of less than one rad per
13 breast for 2 views of an average size breast. The term also
14 includes digital mammography.

15 (d-5) Coverage as described by subsection (d) shall be
16 provided at no cost to the insured and shall not be applied to
17 an annual or lifetime maximum benefit.

18 (d-10) When health care services are available through
19 contracted providers and a person does not comply with plan
20 provisions specific to the use of contracted providers, the
21 requirements of subsection (d-5) are not applicable. When a
22 person does not comply with plan provisions specific to the use
23 of contracted providers, plan provisions specific to the use of
24 non-contracted providers must be applied without distinction
25 for coverage required by this Section and shall be at least as
26 favorable as for other radiological examinations covered by the

1 policy or contract.

2 (d-15) If a municipality, including a home rule
3 municipality, is a self-insurer for purposes of providing
4 health insurance coverage for its employees, the insurance
5 coverage shall include mastectomy coverage, which includes
6 coverage for prosthetic devices or reconstructive surgery
7 incident to the mastectomy. Coverage for breast reconstruction
8 in connection with a mastectomy shall include:

9 (1) reconstruction of the breast upon which the
10 mastectomy has been performed;

11 (2) surgery and reconstruction of the other breast to
12 produce a symmetrical appearance; and

13 (3) prostheses and treatment for physical
14 complications at all stages of mastectomy, including
15 lymphedemas.

16 Care shall be determined in consultation with the attending
17 physician and the patient. The offered coverage for prosthetic
18 devices and reconstructive surgery shall be subject to the
19 deductible and coinsurance conditions applied to the
20 mastectomy, and all other terms and conditions applicable to
21 other benefits. When a mastectomy is performed and there is no
22 evidence of malignancy then the offered coverage may be limited
23 to the provision of prosthetic devices and reconstructive
24 surgery to within 2 years after the date of the mastectomy. As
25 used in this Section, "mastectomy" means the removal of all or
26 part of the breast for medically necessary reasons, as

1 determined by a licensed physician.

2 A municipality, including a home rule municipality, that is
3 a self-insurer for purposes of providing health insurance
4 coverage for its employees, may not penalize or reduce or limit
5 the reimbursement of an attending provider or provide
6 incentives (monetary or otherwise) to an attending provider to
7 induce the provider to provide care to an insured in a manner
8 inconsistent with this Section.

9 (d-20) The requirement that mammograms be included in
10 health insurance coverage as provided in subsections (d)
11 through (d-15) is an exclusive power and function of the State
12 and is a denial and limitation under Article VII, Section 6,
13 subsection (h) of the Illinois Constitution of home rule
14 municipality powers. A home rule municipality to which
15 subsections (d) through (d-15) apply must comply with every
16 provision of through subsections.

17 (e) Notwithstanding the Home Rule Administrative Procedure
18 Act, rulemaking ~~Rulemaking~~ authority to implement Public Act
19 095-1045 ~~this amendatory Act of the 95th General Assembly~~, if
20 any, is conditioned on the rules being adopted in accordance
21 with all provisions of the Illinois Administrative Procedure
22 Act and all rules and procedures of the Joint Committee on
23 Administrative Rules; any purported rule not so adopted, for
24 whatever reason, is unauthorized.

25 (Source: P.A. 95-1045, eff. 3-27-09.)

1 (65 ILCS 5/10-4-2.3)

2 Sec. 10-4-2.3. Required health benefits. If a
3 municipality, including a home rule municipality, is a
4 self-insurer for purposes of providing health insurance
5 coverage for its employees, the coverage shall include coverage
6 for the post-mastectomy care benefits required to be covered by
7 a policy of accident and health insurance under Section 356t
8 and the coverage required under Sections 356g, 356g.5,
9 356g.5-1, 356u, 356w, 356x, 356z.6, 356z.8, 356z.9, 356z.10,
10 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, and 356z.22 of the
11 Illinois Insurance Code. The coverage shall comply with
12 Sections 155.22a, 355b, 356z.19, and 370c of the Illinois
13 Insurance Code. The requirement that health benefits be covered
14 as provided in this is an exclusive power and function of the
15 State and is a denial and limitation under Article VII, Section
16 6, subsection (h) of the Illinois Constitution. A home rule
17 municipality to which this Section applies must comply with
18 every provision of this Section.

19 Notwithstanding the Home Rule Administrative Procedure
20 Act, rulemaking ~~Rulemaking~~ authority to implement Public Act
21 95-1045, if any, is conditioned on the rules being adopted in
22 accordance with all provisions of the Illinois Administrative
23 Procedure Act and all rules and procedures of the Joint
24 Committee on Administrative Rules; any purported rule not so
25 adopted, for whatever reason, is unauthorized.

26 (Source: P.A. 98-189, eff. 1-1-14; 98-1091, eff. 1-1-15;

1 99-480, eff. 9-9-15.)

2 Section 810. The State Mandates Act is amended by adding
3 Section 8.41 as follows:

4 (30 ILCS 805/8.41 new)

5 Sec. 8.41. Exempt mandate. Notwithstanding Sections 6 and 8
6 of this Act, no reimbursement by the State is required for the
7 implementation of any mandate created by this amendatory Act of
8 the 100th General Assembly.

9 Section 999. Effective date. This Act takes effect January
10 1, 2018.