

HB1863



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1863

Introduced 2/23/2007, by Rep. Harry R. Ramey, Jr.

SYNOPSIS AS INTRODUCED:

50 ILCS 35/1

from Ch. 85, par. 2901

Amends the Local Government Antitrust Exemption Act. Makes a technical change in a Section concerning units of local government.

LRB095 09192 HLH 29385 b

A BILL FOR

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 5. The Local Government Antitrust Exemption Act is
5 amended by changing Section 1 as follows:

6 (50 ILCS 35/1) (from Ch. 85, par. 2901)

7 Sec. 1. (a) The General Assembly declares that it is in the
8 ~~the~~ interest of the people of Illinois that decisions regarding
9 provision of local services and regulation of local activities
10 should be made at the local level where possible, to the extent
11 authorized by the General Assembly or the Illinois
12 Constitution. It is and has long been the policy of the State
13 that such decisions be made by local government units as
14 authorized by State statute and the Illinois Constitution. The
15 General Assembly intends that actions permitted, either
16 expressly or by necessary implication, by State statute or the
17 Illinois Constitution be considered affirmatively authorized
18 for subsidiary units of government.

19 Inasmuch as the grant of home-rule authority in the
20 Illinois Constitution, Article VII, Section 6 was
21 intentionally made broad so as to avoid unduly restricting its
22 exercise, the scope of the home-rule powers cannot be precisely
23 described. The General Assembly intends that all actions which

1 are either (1) granted to home-rule units, whether expressly or
2 by necessary implication or (2) within traditional areas of
3 local government activity, except as limited by the Illinois
4 Constitution or a proper limiting statute, be considered
5 affirmatively authorized for home-rule units of government.

6 The General Assembly intends that the "State action
7 exemption" to application of the federal antitrust laws be
8 fully available to local governments to the extent their
9 activities are either (1) expressly or by necessary implication
10 authorized by Illinois law or (2) within traditional areas of
11 local governmental activity.

12 The "State action exemption" for which provision is made by
13 this Section shall be liberally construed in favor of local
14 governments, the agents, employees and officers thereof and
15 such exemption shall be available notwithstanding that the
16 action of the municipality or its agents, officers or employees
17 constitutes an irregular exercise of constitutional or
18 statutory powers. However, this exemption shall not apply where
19 the action alleged to be in violation of antitrust law exceeds
20 either (1) powers granted, either expressly or by necessary
21 implication, by Illinois statute or the Illinois Constitution
22 or (2) powers granted to a home rule municipality to perform
23 any function pertaining to its government and affairs or to act
24 within traditional areas of municipal activity, except as
25 limited by the Illinois Constitution or a proper limiting
26 statute.

1 (b) It is the policy of this State that all powers granted,
2 either expressly or by necessary implication by any Illinois
3 statute or by the Illinois Constitution to any Library
4 District, its officers, employees and agents may be exercised
5 by any such Library District, its officers, agents and
6 employees notwithstanding effects on competition. It is the
7 intention of the General Assembly that the "State action
8 exemption" to the application of federal antitrust statutes be
9 fully available to any such Library District, its officers,
10 agents and employees to the extent they are exercising
11 authority pursuant to law.

12 (c) It is the policy of this State that all powers granted,
13 either expressly or by necessary implication by any Illinois
14 statute or by the Illinois Constitution to any Sanitary
15 District, its officers, employees and agents may be exercised
16 by any Sanitary District, its officers, agents and employees
17 notwithstanding effects on competition. It is the intention of
18 the General Assembly that the "State action exemption" to the
19 application of federal antitrust statutes be fully available to
20 any such Sanitary District, its officers, agents and employees
21 to the extent they are exercising authority pursuant to law.

22 (d) It is the policy of this State that all powers granted,
23 either expressly or by necessary implication by any Illinois
24 statute or by the Illinois Constitution to any Park District
25 and its officers, employees and agents may be exercised by any
26 such Park District, its officers, agents and employees

1 notwithstanding effects on competition. It is the intention of
2 the General Assembly that the "State action exemption" to the
3 application of federal antitrust statutes be fully available to
4 any such Park District, its officers, agents and employees to
5 the extent they are exercising authority pursuant to law.

6 (e) Notwithstanding the foregoing, where it is alleged that
7 a violation of the antitrust laws has occurred, the relief
8 available to the plaintiffs shall be limited to an injunction
9 which enjoins the alleged activity.

10 (f) Nothing in this Section is intended to prohibit or
11 limit any cause of action other than under an antitrust theory.

12 (Source: P.A. 84-1050.)