



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB5329

by Rep. Robert W. Pritchard

#### SYNOPSIS AS INTRODUCED:

65 ILCS 5/1-1-10

from Ch. 24, par. 1-1-10

Amends the Illinois Municipal Code. Creates a 5-year pilot program for non-home rule municipalities with populations in excess of 5,000 located in Kane, Kendall, and DeKalb Counties. Provides that such non-home rule municipalities shall exercise the same powers as home rule municipalities except the power to tax or impose fees. Provides that a municipality with a population in excess of 5,000 located in Kane, Kendall, or DeKalb County that previously held home rule status, and later ended its home rule status by referendum, decrease in population, or otherwise, shall also exercise the powers granted under the Act. Provides legislative intent. Effective immediately.

LRB098 20141 JLK 55450 b

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 Illinois Municipal Code is amended by  
5 changing Section 1-1-10 as follows:

6 (65 ILCS 5/1-1-10) (from Ch. 24, par. 1-1-10)

7 Sec. 1-1-10. It is the policy of this State that all powers  
8 granted, either expressly or by necessary implication, by this  
9 Code, by Illinois statute, or the Illinois Constitution to  
10 municipalities may be exercised by those municipalities, and  
11 the officers, employees and agents of each notwithstanding  
12 effects on competition.

13 It is further the policy of this State that home-rule  
14 municipalities, the officers, employees and agents of each may  
15 (1) exercise any power and perform any function pertaining to  
16 their government and affairs or (2) exercise those powers  
17 within traditional areas of municipal activity, except as  
18 limited by the Illinois Constitution or a proper limiting  
19 statute, notwithstanding effects on competition.

20 It is the intention of the General Assembly that the "State  
21 action exemption" to the application of federal antitrust  
22 statutes be fully available to all municipalities, and the  
23 agents, officers and employees of each to the extent they are

1 exercising authority as aforesaid, including, but not limited  
2 to, the provisions of Sections 6, 7 and 10 of Article VII of  
3 the Illinois Constitution or the provisions of the following  
4 Illinois statutes, as each is now in existence or may  
5 hereinafter be amended:

6 (a) The Illinois Local Library Act; "An Act to provide the  
7 manner of levying or imposing taxes for the provision of  
8 special services to areas within the boundaries of home rule  
9 units and non-home rule municipalities and counties", approved  
10 September 21, 1973, as amended; "An Act to facilitate the  
11 development and construction of housing, to provide  
12 governmental assistance therefor, and to repeal an Act herein  
13 named", approved July 2, 1947, as amended; or the Housing  
14 Authorities Act, the Housing Cooperation Law, the Blighted  
15 Areas Redevelopment Act of 1947, the Blighted Vacant Areas  
16 Development Act of 1949, the Urban Community Conservation Act,  
17 the Illinois Enterprise Zone Act or any other power exercised  
18 pursuant to the Intergovernmental Cooperation Act; or

19 (b) Divisions 1, 2, 3, 4, 5 and 6 of Article 7 of the  
20 Illinois Municipal Code; Divisions 9, 10 and 11 of Article 8 of  
21 the Illinois Municipal Code; Divisions 1, 2, 3, 4 and 5 of  
22 Article 9 of the Illinois Municipal Code; and all of Divisions  
23 of Articles 10 and 11 of the Illinois Municipal Code; or

24 (c) Any other Illinois statute or constitutional provision  
25 now existing or which may be enacted in the future, by which  
26 any municipality may exercise authority.

1           The "State action exemption" for which provision is made by  
2 this Section shall be liberally construed in favor of such  
3 municipalities and the agents, employees and officers thereof,  
4 and such exemption shall be available notwithstanding that the  
5 action of the municipality or its agents, officers or employees  
6 constitutes an irregular exercise of constitutional or  
7 statutory powers. However, this exemption shall not apply where  
8 the action alleged to be in violation of antitrust law exceeds  
9 either (1) powers granted, either expressly or by necessary  
10 implication, by Illinois statute or the Illinois Constitution  
11 or (2) powers granted to a home rule municipality to perform  
12 any function pertaining to its government and affairs or to act  
13 within traditional areas of municipal activity, except as  
14 limited by the Illinois Constitution or a proper limiting  
15 statute.

16           Notwithstanding the foregoing, where it is alleged that a  
17 violation of the antitrust laws has occurred, the relief  
18 available to the plaintiffs shall be limited to an injunction  
19 which enjoins the alleged activity.

20           Nothing in this Section is intended to prohibit or limit  
21 any cause of action other than under an antitrust theory.

22           (d) Municipal authority modernization; pilot program. The  
23 General Assembly finds that smaller municipalities in areas of  
24 growth are presented with increasingly complex issues related  
25 to the health, safety, and welfare of their residents. To  
26 determine whether those municipalities would be better

1 equipped to craft effective solutions for their unique  
2 circumstances, the General Assembly creates the following  
3 pilot program:

4 (1) There is created a pilot program for non-home rule  
5 municipalities with populations in excess of 5,000 located  
6 in DeKalb, Kane, and Kendall Counties. Those  
7 municipalities shall exercise the same powers granted to  
8 home rule municipalities under subsection (b) of this  
9 Section, except for the power to tax or impose fees not  
10 otherwise provided for by law.

11 (2) A municipality with a population in excess of 5,000  
12 located in DeKalb, Kane, or Kendall County that has  
13 previously held home rule status, and later ended its home  
14 rule status by referendum, decrease in population, or  
15 otherwise, shall also exercise the powers granted under  
16 this subsection (d).

17 (3) This subsection (d) is repealed 5 years after the  
18 effective date of this amendatory Act of the 98th General  
19 Assembly.

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

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law.