

HB5821



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5821

Introduced 11/10/2020, by Rep. John M. Cabello

SYNOPSIS AS INTRODUCED:

65 ILCS 5/1-1-10

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

Amends the Illinois Municipal Code. Provides that, except for the powers to tax, impose fees, and to incur debt, non-home rule municipalities shall exercise all of the powers provided to home rule units under Section 6 of Article VII of the Illinois Constitution, subject to the limitations set forth in that Section. Effective immediately.

LRB101 21976 AWJ 72986 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 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 by the Illinois Constitution to
10 municipalities may be exercised by those municipalities~~7~~ and
11 the officers, employees~~1~~ and agents of each~~1~~ notwithstanding
12 effects on competition.

13 Notwithstanding any provision of law to the contrary,
14 except for the powers to tax, impose fees, and to incur debt,
15 non-home rule municipalities shall exercise all of the powers
16 provided to home rule units under Section 6 of Article VII of
17 the Illinois Constitution, subject to the limitations set forth
18 in that Section.

19 It is further the policy of this State that ~~home-rule~~
20 municipalities and~~7~~ the officers, employees~~1~~ and agents of each
21 may (1) exercise any power and perform any function pertaining
22 to their government and affairs or (2) exercise those powers
23 within traditional areas of municipal activity, except as

1 limited by the Illinois Constitution or a proper limiting
2 statute, notwithstanding effects on competition.

3 It is the intention of the General Assembly that the "State
4 action exemption" to the application of federal antitrust
5 statutes be fully available to all municipalities, and the
6 agents, officers, and employees of each to the extent they are
7 exercising authority as aforesaid, including, but not limited
8 to, the provisions of Sections 6, 7, and 10 of Article VII of
9 the Illinois Constitution or the provisions of the following
10 Illinois statutes, as each is now in existence or may
11 hereinafter be amended:

12 (a) The Illinois Local Library Act; Article 27 of the
13 Property Tax Code ~~"An Act to provide the manner of levying or~~
14 ~~imposing taxes for the provision of special services to areas~~
15 ~~within the boundaries of home rule units and non-home rule~~
16 ~~municipalities and counties", approved September 21, 1973, as~~
17 ~~amended; the Housing Development and Construction Act~~ "An Act
18 ~~to facilitate the development and construction of housing, to~~
19 ~~provide governmental assistance therefor, and to repeal an Act~~
20 ~~herein named", approved July 2, 1947, as amended; or the~~
21 Housing Authorities Act, the Housing Cooperation Law, the
22 Blighted Areas Redevelopment Act of 1947, the Blighted Vacant
23 Areas Development Act of 1949, the Urban Community Conservation
24 Act, the Illinois Enterprise Zone Act, or any other power
25 exercised pursuant to the Intergovernmental Cooperation Act;
26 or

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

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

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

24 Notwithstanding the foregoing, where it is alleged that a
25 violation of the antitrust laws has occurred, the relief
26 available to the plaintiffs shall be limited to an injunction

1 which enjoins the alleged activity.

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

4 (Source: P.A. 84-1050; revised 8-7-19.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.