

# HB3758



## 98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3758

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 non-home rule municipalities the power to exercise all power provided to home rule units under Section 6 of Article VII of the Illinois Constitution, except for the powers to tax and to incur debt. Effective immediately.

LRB098 13286 OMW 47803 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 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 Notwithstanding any provision of law to the contrary,  
14 except for the powers to tax and to incur debt, non-home rule  
15 municipalities shall exercise all of the powers provided to  
16 home rule units under Section 6 of Article VII of the Illinois  
17 Constitution, subject to the limitations set forth in that  
18 Section.

19 It is further the policy of this State that ~~home-rule~~  
20 municipalities, the officers, employees and agents of each may  
21 (1) exercise any power and perform any function pertaining to  
22 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; "An Act to provide the  
13 manner of levying or imposing taxes for the provision of  
14 special services to areas within the boundaries of home rule  
15 units and non-home rule municipalities and counties", approved  
16 September 21, 1973, as amended; "An Act to facilitate the  
17 development and construction of housing, to provide  
18 governmental assistance therefor, and to repeal an Act herein  
19 named", approved July 2, 1947, as amended; or the Housing  
20 Authorities Act, the Housing Cooperation Law, the Blighted  
21 Areas Redevelopment Act of 1947, the Blighted Vacant Areas  
22 Development Act of 1949, the Urban Community Conservation Act,  
23 the Illinois Enterprise Zone Act or any other power exercised  
24 pursuant to the Intergovernmental Cooperation Act; or

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

1 the Illinois Municipal Code; Divisions 1, 2, 3, 4 and 5 of  
2 Article 9 of the Illinois Municipal Code; and all of Divisions  
3 of Articles 10 and 11 of the Illinois Municipal Code; or

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

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

22 Notwithstanding the foregoing, where it is alleged that a  
23 violation of the antitrust laws has occurred, the relief  
24 available to the plaintiffs shall be limited to an injunction  
25 which enjoins the alleged activity.

26 Nothing in this Section is intended to prohibit or limit

1 any cause of action other than under an antitrust theory.

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

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.