

A Primer on Home Rule

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Contents

Introduction.....	3
History of Home Rule.....	3
Current Forum of Government	5
Home Rule vs. County Code	5
Home Rule Charter Development.....	7
Endnotes.....	8

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Introduction

“Home rule” refers to a “limited autonomy or self-government granted by a central or regional government to its dependent political units.”¹ In other words, home rule potentially provides local municipalities with the power to self-govern over communal concerns. Establishment of a home rule in Luzerne County would grant it the ability to regulate and arbitrate over its own municipalities’ laws and mandates.

Moreover, municipal home rule would allow Luzerne County the authority to establish its own laws to protect:

- Local businesses
- Natural resources
- Workers’ rights
- Community values²

Home rule proponents claim it stimulates public participation and increases community awareness of local issues. “In home rule states, local government authority over local matters is delegated in broad terms, and local governments are not generally required to obtain specific authority for particular activities.”³ Instead of depending on Pennsylvania’s state law, the county could design its own laws and a regulation not dependent upon the state government’s typically drawn out authorization process.

In May 2009, Luzerne County voters elected a study commission to evaluate home rule and present a framework for home rule governance to be considered by voters.

History of Home Rule

The Commonwealth of Pennsylvania has had a particularly lengthy struggle in its historic attempts to incorporate a municipal home rule. On March 4, 1681, King Charles II authorized William Penn’s Charter – giving the Penn Family the power to oversee and govern more than 16 million acres of land that would ultimately be known as Pennsylvania.⁴

William Penn’s Charter (1681)/ Pennsylvania’s “birth certificate”

- Marks beginning of the Commonwealth
- Granted Penn the power to implement a system of government without British monarchy intervention
- Charter advocated for the following:
 - Representative government
 - Separation of church and state
 - Elimination of nobility and ranks
 - Self-rule
 - Diplomatic co-existence among ethnically and religiously diverse communities⁵

Although Penn's Charter was established in the 17th Century, its ideals and focuses represent democracy's main principles. William Penn's political philosophies and charter were even highly praised by Thomas Jefferson. Jefferson referred to Penn as "the greatest law giver the world has produced."⁶

Unfortunately, Penn's Charter did not withstand the 19th Century; legislative abuses and interference in local government matters eventually led to the Supreme Court's establishment of Dillon's Rule in Pennsylvania.⁷ Without the approval of the central state government, Dillon's Rule prohibited municipalities from incorporating local laws to address specific county issues.⁸

Dillon's Rule (1877)

- Municipal governments are dependents of state government
- State governments are responsible for a local government's "existence, form and function"⁹

As a result of Dillon's Rule, the beginning of the 20th Century inspired a political progressive movement that aspired to reform and to create a more effective form of local government. The wave for change advocated the notion of "a constitutional guarantee of home rule for municipalities across the country."¹⁰

But the Progressive era's idea of a home rule strictly aimed to reorganize municipality governments in terms of efficiency:

Home rule in the Progressive era was meant to achieve governing "efficiency" fashioned after corporate business models, and was not viewed as a way to expand citizen participation or create greater local democracy.¹¹

Thus, the community was not provided a more accessible government or to increased public involvement; instead, the move was strictly aimed to design a well organized and highly proficient local authority.

In 1922, home rule was finally established in Pennsylvania due to a modification of the Constitution, which assigned the General Assembly the power to grant cities the option of enacting a home rule charter. In 1949, the General Assembly designated home rule authority to Philadelphia only.¹²

By 1968, the Commonwealth granted all counties the ability to adopt a home rule charter. "Home Rule transfers substantial authority and responsibility to act in local affairs from state law to a local Charter which is adopted by voters. A county that adopts a Home Rule Charter has the ability to amend its Charter through referendum to suit its changing needs."¹³

Therefore, all of Pennsylvania municipalities and counties are technically allowed to enact their own home rule charters, which have the capacity to minimize a county's reliance on state legislation to govern local government.

Current Forum of Government

Although the Constitution of the Commonwealth of Pennsylvania enabled local governments statewide the option to adopt a Home Rule Charter in 1968, Luzerne County runs on a system known as the County Code.

County Code Basics:

- Consists of state laws only. Only Pennsylvania state legislators have the power to determine all—large and small—changes made in the local government

In other words, the current state code prevents Luzerne County residents from voting on communal issues concerning the management and operations of the county’s administrative authority.¹⁴

Home Rule vs. County Code

The structure and regulations of the existing Luzerne County Code and a Home Rule Charter share various commonalities, yet there are clear areas of disagreement. In order to fully understand each, it is important to understand their differences and similarities.

Similarities

- County Code and Home Rule follow regulations and limitations found in:
 - U.S. and Pennsylvania Constitutions.
 - Some state laws.
- Both must follow existing labor and legal binding contracts.
- “County’s municipalities are separate and distinct from the County.”¹⁵
- Neither system diminishes citizen benefits, such as Social Security, Medicare, Medicaid, welfare, student loans, etc.

Differences

- County Code only allows Luzerne County’s administration to operate under “specifically authorized state laws.”¹⁶
- A Home Rule Charter’s operations can only be restricted by state or federal law.
- Home Rule enables municipality or county to govern by community voting over particular local manners, without statewide legislation intervention.
- A Home Rule Charter allows citizens “to amend its Charter through referendum to suit its changing needs.”¹⁷

Historic Reasons for Home Rule

- Residual powers – write own administrative code
- Increased citizen access – initiative & referendum
- Improved accountability & responsiveness
- Improved fiscal procedures & controls
- Flexibility
- Professional administration
- Wider representation
- Focused political leadership
- Separate legislative & executive functions
- Merit hiring & advancement

Limitations

- United States Constitution
- Pennsylvania Constitution
- State laws
- Specific restrictions - Act 62
- Laws that are uniform & applicable throughout the Commonwealth
- Laws directed expressly at home rule governments
- The charter itself

Specific Limitations

- Arbitration/labor relations
- Boundary Change Law
- Independence of municipalities
- Election Code
- Ethics Law
- Recall
- Reapportionment
- Sunshine Law
- Open Records Law
- Local Agency Law
- Tort claims
- Unit Debt Act
- Taxation subjects
- Court appointed personnel
- Veterans preference
- Clean streams
- Sewage Facilities Act
- Storm Water Management Act
- Recycling & Waste Reduction Act
- Vehicle Code
- Firearms/hunting regulations
- Private business limitations

- Regulation of utilities
- Eminent domain
- Local government autonomy
- Zoning - Pennsylvania Municipalities Planning Code

Home Rule Charter Development

Pennsylvania's Home Rule Charter and Optional Plans Laws (Act 62 of 1972) offers counties and municipalities the steps necessary to incorporate home rule authority. In order to develop a Home Rule Charter, Luzerne County must first contact the Pennsylvania General Assembly: "Only an Act of the Pennsylvania General Assembly in Harrisburg can change this code."¹⁸

On November 6, 2001, the Luzerne County Government Study Commission was elected to consider the Home Rule Charter and Optional Plans Laws Act 62 of 1972. The Commission is comprised of eleven nonpartisan members who provide free services.¹⁹

The Commission was charged with studying the current form of government, the County Code, and assessing whether or not it is beneficial to the community. Once the Government Study Commission unanimously decided that alterations in local government would be a positive change, it drafted the proposal of a Home Rule Charter.²⁰ Finally, the proposed charter was reviewed and voted on by Luzerne County voters in a municipal election. In case of the 2001 Government Study Commission, voters did not accept its charter. In 2009, another Government Study Commission was elected and is now in the process of drafting a charter for consideration by Luzerne County voters.

Endnotes

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