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Home rule is the ability of local governments to act independently from the state government. This issue brief examines home rule in Indiana in the context of the Midwest.

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## Home Rule in the Midwest

Home rule refers to the ability of city and county governments to exercise discretion with respect to government form, structure, functions, fiscal, and regulatory matters. States have the power to authorize whether local governments may exercise home rule and the breadth of their home rule powers. Home rule is an important measure of local government independence. That said, there is a great deal of variation in home rule powers among states.

Broad home rule authority allows a community to tailor its local government to meet local needs. It is recognition that not all local governments within a state are alike. Restrictive home rule policies make local governments more administratively and fiscally dependent on the state. This can place greater burdens on the state and affect the state's own fiscal environment. At this time, however, little empirical research has been done on the fiscal effects or outcomes of home rule policies on either the state or local governments. Additionally, it is not clear which particular features (form, structure, functions, fiscal, regulatory) of home rule provide the most flexibility to address problems and provide services. For the purposes of this report, the various features are assumed to provide equal impact on local government.

Home rule policies have different implications for counties than for municipalities. Counties are subdivisions of state government and are obligated to provide basic public services; for example, law enforcement. County home rule represents a layer of local independence over an otherwise quasi state government entity.

Municipalities, on the other hand, are generally established to provide a more extensive set or level of services. The geographic boundaries of municipalities may change over time, and the level and number of public services may vary based on state law and/or local ordinance. For these reasons, the focus of this report will be on municipal home rule.





The first section of this report offers a brief state by state description of laws affecting home rule in the Midwest. The next section provides a more detailed side by side comparison of the states in the study. The final section is an analysis of Indiana's home rule environment relative to the region and the nation.

## Home Rule in the Midwest States

The following is a discussion of the laws affecting local government home rule in the seven state Midwest study area including Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, and Wisconsin.



Home rule powers in Indiana derive mostly from The Home Rule Act of 1980. Though the act ostensibly sets forth the home rule powers of municipal government it mostly enumerates a long list of restrictions. Local governments in Indiana are prohibited from engaging in a wide variety of activities unless the state legislature affirmatively votes to allow them, such as the powers to impose taxes, licenses, or fees; to conduct elections; and to invest money (Blomquist, 2001).

Cities are also forbidden from imposing a license or fee greater than the administrative cost of providing the service. In other words, cities cannot profit from services. There are also strict limits on property tax. Rates for each jurisdiction must conform to a cap on total individual liability equal to one percent for owner occupied residential property, two percent for commercial and rental properties and three percent for industrial property. Additionally, all municipal budgets must be approved by the county.

Incorporation rules are quite strict—no new town may incorporate within three miles of an existing municipality without an ordinance of consent from that municipality. But rules regarding annexation and regulation of extraterritorial jurisdiction are much more lenient, if complex. As it is consolidated with Marion County, Indianapolis is the only city expressly forbidden by the state from annexing new territory.

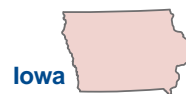


Home rule laws in Illinois center on balancing the interest of three regions: the city of Chicago, the Chicago suburbs, and Downstate

(everything outside of the Chicago metro area) cities. Home rule in Illinois dates from the constitutional convention of 1970. Cities are eligible for home rule status if their populations are greater than 25,000. Non-home rule cities are not completely constrained. They may impose special assessments, change their form of government by referendum, and create special districts without input from the state (Wandling, 2001).

Home rule cities are granted broad powers that need not be enumerated by statute. The state legislature must specify intent and estimate impact to limit revenues or jurisdiction of local governments, it. Home rule cities do not have to follow civil service guidelines, non-home rule cities do. Residents of unincorporated areas must elect to be annexed through a voting process. Home rule does not confer any additional annexation powers on cities and cities have limited extra-territorial powers.

Cities can use any revenue source they wish without authorization by statute, except for income tax. Home rule cities are mostly exempt from property tax caps, but annual growth over five percent triggers a referendum. There are no debt limits for home rule cities. All cities must follow procedural requirements with regard to budgets and expenditures, but the state neither sets dates for a fiscal year nor approves budgets.



Home rule in Iowa dates to the 1970s. Voters decide the form of government for their municipality by referendum. Cities and counties in Iowa perform functions similar to functions performed by cities and counties in other states (Coates, Whitmer, & Bredeweg, 2001).

The state sets a maximum municipal tax rate of \$0.81 per \$100 of assessed valuation. Assessed valuation can only increase by four percent per year regardless of growth in appraised value. Cities can impose a local option sales tax of one percent on top of the state rate of six percent. Cities may have three funds: general (to which the above limits apply), trust and agency funds (for employee benefits), and an emergency fund. Additional funds can be created for specific purposes. There is a strict debt limit of five percent of assessed value, though this does not apply to revenue bonds. Enterprise revenue sources are not limited, but surplus revenue cannot be used for anything other than their own operations.



## Michigan

Home rule authority is granted by the state constitution and denies the power of the state to write and amend city charters on a case by case basis. Cities provide a wide array of public services. The state gives local officials a wide range of administrative discretion. A constitutional amendment prohibits the state from imposing unfunded mandates on local governments (VerBurg 2001).

Cities in Michigan derive most of their revenue from property tax. The limit on the property tax rate for cities is 2 percent per \$100 of assessed value. Annual assessments increases are capped at 5 percent, or the Consumer Price Index (CPI), whichever is less. Cities may levy an income tax of up to 1 percent. The state shares 1.3 cent of its 6 cent sales tax with local governments and distributes the revenue based on population. Cities receive 22 percent of motor fuels taxes for roads and infrastructure. Cities have a general obligation debt limit of 10 percent. All local governments must adopt an annual balanced budget.



## Minnesota

Though state law provides for home rule and statutory cities, there is little difference between them in practice. Cities may choose among several forms of government specified by state law. Cities and counties are allowed to engage in a wide variety of functions. Cities have a great deal of administrative discretion, while the state retains the right to audit contracting, bidding and purchasing (Wichern, 2001).

Annexations must be submitted to a state appointed board for approval. There are many regional commissions in which local governments cooperate to solve regional problems.

The primary revenue source for all local governments is property tax. Cities are allowed to operate revenue-producing enterprises. Property tax administration is performed by counties and some large cities. Cities may impose a local option sales tax with a limit of 1 percent. Cities may set their own debt limits and can only exceed them by referendum.



## Ohio

The Ohio constitution is intentionally vague when it comes to home rule. The purpose of this was to allow the courts to decide which matters were best handled by the state and which were best handled by local governments. In fact, much of Ohio's home rule law is an outgrowth of court cases and decisions rather than constitution or statute as it is in other states (Dustin, 2001).

Cities have the power to enact charters. If they do, cities have wide latitude in establishing form of government. If they do not, state statute prevails. Ohio cities may offer a wide variety of public services. Incorporation in Ohio is relatively easy. Annexation, meanwhile, requires county approval which is more restrictive.

Property tax rates are limited to 1 percent of true value unless higher rates are approved by the voters. The property tax typically accounts for less than 10 percent of municipal revenues. The municipal income tax also has a cap of 1 percent (unless overridden by voters), but produces about one third of municipal revenues. County auditors must certify that municipal tax revenues will be enough to cover expenses. Cities have a debt limit of 5.5 percent of assessed valuation that can go up to 10.5 percent with voter approval. Charges and user fees make up a large (34 percent) portion of municipal revenue.



## Wisconsin

Cities may choose between three forms of government. There are four classes of cities as well as villages. State law specifies a number of elected and appointed positions with municipal governments. Cities are required to have police and fire commissions. Incorporation requirements are very strict and difficult. It requires a petition, court review, state administrative review, and finally a popular vote. Annexation rules are similarly restrictive.

Wisconsin cities are constrained in their abilities to partner with other cities and local governments.

Most municipal revenue comes from property tax. There are no property tax limits for cities, but the state exempts a wide variety of property and shares revenue with cities to compensate for exemptions. The general obligation debt limit is 5 percent of assessed valuation.



## Elements of Home Rule

A handful of states do not provide for home rule, but all of the Midwest states in the study area do. Table 1 is a summary of home rule features directly related to municipal independence, government function, and fiscal matters. *Broad/liberal construction* refers to the state's position on whether home rule constitutes a set of guidelines or exhaustive limits on municipal powers. In a state where broad or liberal construction of home rule applies, the burden of proof rests with the state. If a state does not impose a debt limit or does not allow a local option retail sales tax, the box is marked not applicable (n/a).

*Structural independence* refers to the ability of a city to write its charter, choose its form of government, and determine its organizational structure. *Functional independence* is the ability to choose which

public goods and services the city provides and at what levels. *Fiscal independence* refers to the tax and revenue sources to which a city has access, as well as to how much oversight state or county officials have over the budget calendar and process. Note that the items under *Municipal government function* are not differentiated by functions that local governments are allowed to perform versus functions that they are compelled to perform.

Along these measures, Illinois, Michigan, and Ohio give their cities the greatest amount of discretion with respect to structure, function, and fiscal measures. Iowa cities perform the widest array of functions and Minnesota the least. With regard to actual fiscal limits, like property tax limits, debt limits, and balanced budget requirements, municipalities Illinois, Iowa, and Minnesota have the broadest discretion. Indiana imposes some of the strictest fiscal controls on its cities through limits on revenue sources, debt, and budget process.

**Table 1.** Municipal home rule in Indiana and the Midwest

	Indiana	Illinois	Iowa	Michigan	Minnesota	Ohio	Wisconsin
<b>Municipal independence and home rule</b>							
Structural	Low	High	High	High	Medium	High	Medium
Functional	Medium	High	Medium	High	High	High	High
Fiscal	Low	Low	Low	High	Low	High	Low
Broad/liberal construction		✓				✓	
<b>Municipal government function</b>							
General government	✓	✓	✓	✓	✓	✓	✓
Public safety	✓	✓	✓	✓	✓	✓	✓
Public health			✓			✓	✓
Public works	✓	✓	✓	✓	✓	✓	
Social services			✓				
Economic development	✓	✓	✓	✓	✓	✓	✓
Land use regulation	✓	✓	✓	✓	✓	✓	✓
Culture and recreation	✓	✓	✓	✓		✓	✓
<b>Municipal finance</b>							
State imposed debt limit	2%	n/a	5%	10%	n/a	10.50%	5%
Average local retail sales tax rate	n/a	2.15%	0.94%	n/a	0.34%	1.33%	0.42%
Property tax limits set by state	✓			✓			
Balanced budget required	✓			✓	✓	✓	

Sources: Krane, Rigos, & Hill, Jr., 2001, pp. 476-477, 483-484, 491, tables A1, A10, A15, A16. The Tax Foundation, 2009.



Table 2 is a summary of rules related to incorporation, annexation, extraterritorial jurisdiction (ETJ), and interlocal cooperation. The four point ranking under incorporation and annexation is derived from Krane et al. (2001, tables A6 and A8, pp. 480-481). Incorporation and annexation regulations that require approval by other governmental entities are considered difficult or restrictive. Regulations that require only resident petitions or actions by the city itself are considered easy or less restrictive. When joint authority is required for the exercise of powers in the ETJ it usually means that municipalities require permission from the county.

*Extraterritorial jurisdiction* refers to the regulatory power that cities possess with regard to adjoining unincorporated areas. Inter-local cooperation refers to the kinds of relationships in which cities are allowed to participate with other local governments.

## Municipal Home Rule in Indiana Compared with the Region and the Nation

The most substantial difference between municipal home rule in Indiana and other states is in regard to fiscal matters. Indiana allows

its municipalities very little discretion in determining revenue sources or levels. While the state of Indiana has a retail sales tax, there is no local option component as in other states. Indiana cities have a relatively narrow portfolio of taxes with which to raise own source revenue and the revenue sources to which they have access have very strict limits. Cities must also conform to a budget calendar and process set by the state and approved by the county. Cities also have strict and low debt limits.

Other differences that set Indiana apart from most of the other states are rules regarding structure and form of government. Excluding Indianapolis, larger cities in Indiana (2nd class cities) are required to have a strong mayor form of government, while smaller cities (3rd class) may choose to adopt a council manager form of government. This is the reverse of what other states generally require or allow.

It may also be helpful to put the variety and number of local governments in context. Table 3 displays the number of county, municipal (includes cities and in some states towns and villages), township, school district, and special district governments in each state. Michigan and Ohio have the fewest local governments per capita, while

**Table 2.** Annexation and interlocal cooperation Indiana and the Midwest

Annexation and Interlocal Cooperation	Indiana	Illinois	Iowa	Michigan	Minnesota	Ohio	Wisconsin
<b>Incorporation</b>							
Difficulty (1 = easiest; 4 = hardest)	4	2	4	3	1	1	3
<b>Annexation Powers</b>							
1 = least restrictive; 4 = most restrictive	1	3	2	2	2	4	4
<b>Extra-Territorial Jurisdiction</b>							
Own Property	✘		✓		✓	✓	✓
Eminent Domain	✓						
Planning and Zoning			✓			✓	✓
Joint Authority Required							✓
Explicit state limits		✓					
<b>Interlocal Cooperation</b>							
Interlocal Agreements	✓	✓		✓	✓	✓	✓
Interlocal Risk Management	✓						
Joint Equipment Facilities			✓			✓	✓
Joint or Regional Planning		✓			✓	✓	✓
Joint Power Agreements	✓		✓		✓		
Metropolitan Districts					✓		
Public Authorities	✓	✓	✓	✓		✓	
Regional Commission or COG					✓	✓	
Service Delivery Contracts	✓	✓	✓	✓	✓		
Special Districts	✓	✓	✓	✓	✓	✓	

\*Though not mentioned in Krane, Rigos, & Hill (2001), municipalities and Indiana have planning and zoning authority up to two miles inside their ETJ. Source: Krane, Rigos, & Hill, Jr., 2001, pp. 480-83, 489, tables A5, A6, A7, A8, A9, A13.



Iowa and Minnesota have the most. Indiana is on the low side, but still in the middle. In fact, Indiana ranks middle to low on all of the measures on a per capita basis. It is unclear at this point whether these measures serve as adequate proxies for home rule or economies of scale.

## Summary

There is a great deal of variation within the Midwest region with respect to home rule. While it is difficult to construct an objective ranking, Illinois, Michigan, Minnesota, and Ohio generally offer their cities broader home rule powers and more independence. Their municipal governments have more discretion with respect to form of government and structure, elections, fiscal issues, annexation, incorpora-

tion, and inter-local cooperation. Iowa and Wisconsin are generally at the other end of the spectrum. Municipal discretion in those states is far more restrictive.

Among the Midwest states, Indiana imposes the most restrictions on governmental structure. It allows a broad range of municipal functions and is fairly liberal with respect to most territorial issues. Where Indiana departs from other states in the region is on fiscal matters. Indiana imposes some of the strictest regulation on cities revenue sources, limits, budget process, and debt. If all aspects of home rule were given equal weight, Indiana might be classified as only mildly restrictive side. If fiscal and structural issues are given more weight, Indiana is easily at the restrictive end among the Midwest states.

**Table 3.** Number of local governmental units in Indiana and the Midwest

	Indiana	Illinois	Iowa	Michigan	Minnesota	Ohio	Wisconsin
Counties	92	102	99	83	87	88	72
Municipalities	568	1,291	948	533	854	942	585
Townships	1,008	1,431	0	1,242	1,793	1,308	1,265
School Districts	293	934	386	739	345	667	446
Special Districts	1,125	3,145	542	332	403	631	684
Total	3,086	6,903	1,975	2,929	3,482	3,636	3,052
2009 Population	6,423,113	12,910,409	3,007,856	9,969,727	5,266,214	11,542,645	5,654,774
Total local governments per million population	480	535	657	294	661	315	540

Sources: Indiana Commission on Local Government Reform, 2007. US Census, 2002; 2009.

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