

Dispelling the Myth of Home Rule

Local Power in Greater Boston

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Executive Summary

Massachusetts is a strong home rule state, it is commonly believed. It is, people say, a state that gives its cities and towns a great deal of local autonomy. This view is so widely held that efforts to promote regionalism in the Boston metropolitan area are often dismissed as impossible. But is this view right? Over the last two years, we have investigated whether the 101 cities and towns within the Boston metropolitan region have “home rule” in the local autonomy sense of the term. To do so, we have examined the provisions of the state constitution that purport to give home rule to Massachusetts’ local governments and the numerous state statutes that grant and limit local power. We have also interviewed officials from more than half of the cities and towns in the region to find out how home rule functions in practice. The results suggest that the standard story about home rule in Massachusetts is largely a myth. Indeed, promising but largely overlooked avenues for regional reform exist that would involve expanding—rather than limiting—home rule.

Among the report’s key findings are:

1. Municipalities in the Boston metropolitan region have nothing like—and, equally importantly, do not feel like they have anything like—home rule in the local autonomy sense of the term.

Officials from nearly half of the towns that we surveyed rejected the suggestion that Massachusetts is a “strong” home rule state. Even those who contended that home rule was alive and well agreed that the state gives localities too few resources to deal with costly state mandates and too little authority to deal with many of the problems that their residents would like local governments to address.

Several officials told us that Massachusetts is more hostile to home rule than other states with which they were familiar. And they are right: a review of the home rule provisions in the state’s constitution, as well as the judicial decisions that have interpreted them, reveals that the state has one of the most restrictive home rule amendments in the nation.

The state’s limitations on home rule significantly impact the day-to-day activities of the region’s municipal officials, structuring their choices and affecting the kind of policies they can pursue. In particular:

- Massachusetts gives local governments no protection against conflicting general state legislation. Given this unlimited state power to overturn local decision making, even ambiguous state legislation tends to make local officials wary of undertaking any action that has not been expressly authorized by the state.

- Massachusetts explicitly denies local governments home rule authority over taxing or borrowing. The state also subjects its localities to a broad array of unfunded mandates. As a result, municipal officials have very little control over their budgets. Often, when they exercise the discretion they do possess, local officials have little choice other than to limit the programs that are most directly aimed at responding to the concerns of local residents.

- Massachusetts affords its towns and cities less control over land use than many people think. Local governments lack the independent power to impose impact fees or to enact a range of affordable housing regulations that have proven successful elsewhere. State law also makes it difficult for cities and towns to undertake meaningful planning efforts or to change current land use laws in ways that would promote a more community-friendly environment.

- Massachusetts gives cities and towns no meaningful role in addressing the problems that exist in their public schools. State law largely limits local government's role to approving or disapproving funding requests from school committees. Judgments about school policy are given either to the school committee or, increasingly, to the state itself.

2. Key aspects of the state constitution's Home Rule Amendment do little to empower the region's towns and cities.

The state's home rule petition process is designed to enable localities to obtain authority directly from the state. It was strongly criticized, however, because local requests often die in the state legislature due to lack of attention or objections that are rooted in statewide political concerns.

The state's home rule charter process, although helpful to some municipalities in reorganizing their governmental structures, is itself so burdensome that many municipalities do not rely on it. Tellingly, most of the region's towns and cities do not have home rule charters.

3. Home rule in Massachusetts is structured in a way that limits local power and frustrates regionalism.

Even though the state routinely intervenes in local affairs, it does not do so in a way that promotes regionalism. In the eyes of many of those we surveyed, Massachusetts protects home rule in a way that promotes parochialism and frustrates interlocal cooperation rather than in a way that empowers cities and towns to meet the needs of their residents.

The limited nature of home rule engenders a cautious attitude in local officials that makes them wary of innovation and worried about sharing power or resources with their neighbors for fear of placing themselves in an adverse competitive position.

The constraints on local land use and budgetary authority, given the competitive context in which municipalities in the region find themselves, create incentives for municipalities to pursue strategies that keep families with children

out of town. The limits that the state places on local home rule—and not just the land use powers that the state grants to its localities—play a role in promoting this kind of local exclusionary zoning practice.

Local officials had little sense that the Boston metropolitan region comprises a shared community of interest. To the extent respondents identified with anything like a region, they tended to have in mind only the three-to-five communities immediately adjacent to them.

This report does not simply challenge the myth of home rule in Massachusetts. It suggests that a more complex understanding of home rule can open up new routes for promoting regionalism. Contrary to what many believe, municipal parochialism and competition are not inherent characteristics of Massachusetts life. Current attitudes towards regionalism and its relationship to home rule are nurtured and reinforced by the current legal structure of home rule. As city and town officials know all too well, the state has created a complex mix of grants of local power and limitations on that power, not a system of local independence and autonomy. This mix of powers and disabilities creates the constrained environment within which municipal officials operate, and it plays a major role in shaping municipal officials' judgments about the kind of coordination with other localities that is possible or desirable. The obstacles to regionalism are not simply a function of local preferences to go it alone. State-imposed limitations on home rule play a major role in inhibiting inter-municipal cooperative efforts in the Boston area.

By showing what home rule means as a legal matter, and by showing how municipal officials charged with exercising it understand the concept, this report is designed to spur thinking about how the state might empower its cities and towns to enable them to address not only local problems but regional problems. The region's problems are not solely a consequence of the state's deference to home rule, and thus creating a new regional government to supplant local authority is not the only way to solve them. There may well be areas in which greater state intervention may be needed to promote region-wide goals, but the state can also promote regionalism by responding to the widespread sentiment that the state unduly limits home rule. For example, the state can enhance local power—and relax existing limitations on that power—as a means of inducing greater regional cooperation. In this way, the state can help overcome the sense of opposition between home rule and regionalism that so many municipal officials we interviewed took as a given. To make this proposal more concrete, we offer, in the concluding section of the report, some examples of how increasing local power and fostering regionalism can go hand-in-hand.