

Understanding Florida's Home Rule Power

History

The U.S. Constitution makes no mention of the powers related to local governments – the 10th Amendment reserves those powers to the state. During the 18th century, cities, counties and parishes across the nation derived their powers from their state constitutions, and these local governments relied upon their respective state legislatures for all powers. This was upheld in an 1860's court case, called "Dillon's Rule," which held for most states through the end of the 1800s.



An example of the difficulty in a non-Home Rule era would be the issue of traffic control signs: if a city wished to erect signs related to traffic control (horses, wagons, and the newly created automobiles), the city first had to obtain state permission through a special act, or general law of local application. Cities and counties might seek this permission jointly, or by population category ("all cities over 10,000 in population shall..." but still had to petition their legislators for these bills during each legislative session. It was not uncommon in Florida for more than 2,000 special acts to be filed in a session during this era.

In the early 1900s, however, states began to adopt "Home Rule" provisions in which cities and counties were allowed to enact ordinances at the local level without state "blessing" – or without the enactment of special acts, general laws of local application, or similar measures.

In Florida, Home Rule language was proposed in the 1968 Constitutional revision, and was adopted by the people. After several legal challenges, the Legislature adopted the Home Rule Powers Act in 1973, which ended challenges related to city and county powers. The Florida Constitution states in Article VIII, Section 2(b) for municipalities:

"Municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise power for municipal purposes except as otherwise provided by law."

These powers do not extend to fiscal Home Rule: the state reserves all taxing authority unto itself.

Application

The most precious powers a city in Florida has are its Home Rule powers. The ability to establish its form of government through its charter, and to then enact ordinances, codes, plans and resolutions without prior state approval is a tremendous authority. To further be able to enforce them "at home" and to make necessary changes as a city grows is a great reflection of the trust that citizens have in their respective city leaders.

Of course, city laws cannot conflict with state or federal laws. In the metropolitan Miami-Dade County government and in certain chartered county governments, some municipal ordinances and processes are subject to county review. However, for most of Florida's 412 municipalities, Home Rule powers ensure that the cities are effectively and efficiently providing for the wishes of their citizens.