

# HB1269



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB1269

Introduced 1/31/2023, 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 that, except for the powers to tax, impose fees, and to incur debt, non-home rule municipalities shall exercise all of the powers provided to home rule units under Section 6 of Article VII of the Illinois Constitution, subject to the limitations set forth in that Section. Effective immediately.

LRB103 05171 AWJ 50186 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 by 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, impose fees, and to incur debt,  
15 non-home rule municipalities shall exercise all of the powers  
16 provided to home rule units under Section 6 of Article VII of  
17 the Illinois Constitution, subject to the limitations set  
18 forth in that Section.

19 It is further the policy of this State that ~~home rule~~  
20 municipalities and the officers, employees, and agents of each  
21 may (1) exercise any power and perform any function pertaining  
22 to 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  
4 "State action exemption" to the application of federal  
5 antitrust statutes be fully available to all municipalities  
6 and the agents, officers, and employees of each to the extent  
7 they are exercising authority as aforesaid, including, but not  
8 limited to, the provisions of Sections 6, 7, and 10 of Article  
9 VII of the Illinois Constitution or the provisions of the  
10 following Illinois statutes, as each is now in existence or  
11 may hereinafter be amended:

12 (a) The Illinois Local Library Act; Article 27 of the  
13 Property Tax Code; the Housing Development and  
14 Construction Act; or the Housing Authorities Act, the  
15 Housing Cooperation Law, the Blighted Vacant Areas  
16 Development Act of 1949, the Urban Community Conservation  
17 Act, the Illinois Enterprise Zone Act, or any other power  
18 exercised pursuant to the Intergovernmental Cooperation  
19 Act; or

20 (b) Divisions 1, 2, 3, 4, 5, and 6 of Article 7 of the  
21 Illinois Municipal Code; Divisions 9, 10, and 11 of  
22 Article 8 of the Illinois Municipal Code; Divisions 1, 2,  
23 3, 4, and 5 of Article 9 of the Illinois Municipal Code;  
24 and all of Divisions of Articles 10 and 11 of the Illinois  
25 Municipal Code; or

26 (c) Any other Illinois statute or constitutional

1 provision now existing or which may be enacted in the  
2 future, by which any municipality may exercise authority.

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

18 Notwithstanding the foregoing, where it is alleged that a  
19 violation of the antitrust laws has occurred, the relief  
20 available to the plaintiffs shall be limited to an injunction  
21 which enjoins the alleged activity.

22 Nothing in this Section is intended to prohibit or limit  
23 any cause of action other than under an antitrust theory.

24 (Source: P.A. 102-510, eff. 8-20-21; 102-558, eff. 8-20-21.)

25 Section 99. Effective date. This Act takes effect upon  
26 becoming law.