



Municipal and county officials gather around Governor John West as he signs the Home Rule constitutional amendment.

# Home Rule

## *turning point for local governments*

**T**he Home Rule Act of 1975 is landmark legislation which is the source of local government authority.

The Act was the culmination of decades of efforts from a variety of groups interested in more flexible and efficient local government. It greatly expanded the authority of county government and gave a structural framework for county and municipal governments.

Municipal government in various forms had existed in South Carolina even before a formal state government structure. Municipal governments operated with a great deal of autonomy. Ordinances adopted by city government to regulate city life were rarely challenged.

As the state began to develop, the state legislature began to play an increasing role in regulating the fiscal authority of

municipal government. From the early days of the Municipal Association in the 1930s, city officials saw increasing restrictions placed on their fiscal authority.

At the time, county government was just an arm of the state government at the county level. The legislative delegation, usually the senator, controlled the county. Each year the state legislature passed a supply bill which was the county budget. The delegation dictated every detail from pencils to personnel. Elected county officials mainly took care of county roads.

At the 1957 Municipal Association Annual Meeting, Mayor J. Clarence Dreher of Columbia presented a program to the delegates based on Report #5 of the General Assembly Fiscal Survey Commission which was published in 1956. It was commonly called the "Wiggins Report."

"The fiscal problems and affairs of the counties, school districts and cities are interrelated and interwoven with the fiscal affairs of the state government," Dreher read from the report. "In some cases the sources of revenue are overlapping. Local governments are at the end of the line as to sources of tax revenue except property taxes."

"A major factor in the fiscal problems of local governments in South Carolina is the extent to which the state controls the delicate relationship between itself and the local governments."

Dreher concluded his comments on the Wiggins Report saying, "The state must accept its responsibilities and unless we have healthy, fiscally sound municipal governments in the state, the state itself cannot experience progress and sound government."

The real impetus to give Home Rule to local government came in 1964 with the U.S. Supreme Court decision in *Reynolds v. Sims*. The Court decision said, “One man, one vote.” This set in motion a realignment of political boundaries so that representation was approximately equal in legislative bodies.

In South Carolina, a state senator no longer represented a geographic county line district. He represented 1/46 of the state’s population. The senator was no longer as interested in being the county boss because the new district may encompass multiple counties or be a fraction of a larger county. There was an immediate need to find a way for counties to be governed without the ties to the legislative delegation.

Speaking at the 1967 Municipal Association Annual Meeting, Senator Jack Lindsay of Marlboro County, a member of the Constitutional Reform study committee, made it clear local government reform could not wait on constitutional reform. “We are confronted in South Carolina more directly with this problem because of reapportionment.”

Senator Lindsay went on to say that a minimum amount of constitutional change followed by statutory law would be needed to give a governing structure to county government.

The Constitutional Reform Committee worked for several years on a local government article to amend the 1895 Constitution. In 1972, South Carolina voters approved Article VIII at the general election. The amendment was “bare bones” and allowed the legislature to fill in the details with statutory law.

In 1973, the legislature ratified the vote on Article VIII then focused on the statutory law needed to flesh out the framework approved in Article VIII.

“Municipal government had two goals for what is known as the Home Rule legislation,” explained Howard Duvall, former executive director of the Municipal Association. First, municipal government wanted to be free of the fiscal limitations imposed by the state legislature. Secondly,

municipal officials wanted modern annexation laws allowing municipal governments to expand to their natural service areas.

The debate was intense. At one point the House divided the section in state code dealing with county government from the municipal section then passed the county section. The Senate responded to the call from municipal government and passed a bill which included municipalities.

---

**“The state must accept its responsibilities and unless we have healthy, fiscally sound municipal governments in the state, the state itself cannot experience progress and sound government.”**

*Mayor J. Clarence Dreher,  
Columbia, 1957*

---

In May 1975, Governor James Edwards signed the Home Rule Act into law. The Act greatly expanded the authority of county government, allowing it to provide municipal-type services. It prevented the formation of any more special purpose districts. Instead, it included a provision for the county to establish special tax districts.

While the new law spelled out the structure and authority for counties and municipalities, it left out the fiscal freedom and modern annexation law sought by the municipalities.

After 1975, the meaning of Home Rule began to be defined by rulings of the

SC Supreme Court. Each ruling further established the authority of county and municipal government under the Act.

In a ruling issued on April 13, 1993, in *Williams v Hilton Head*, the SC Supreme Court said for the first time that South Carolina local government no longer operated under Dillon’s Rule. Dillon was a justice of the state Supreme Court in Iowa. Dillon’s Rule stated that local governments were creatures of the state and could only do what was specifically authorized by the state. The Williams ruling gave local government permission to act as long as the act was “consistent with general law.”

“This Court concludes that by enacting the Home Rule Act, S.C. Code Ann. § 5-7-10, et seq. (1976), the legislature intended to abolish the application of Dillon’s Rule in South Carolina and restore autonomy to local government. We are persuaded that, taken together, Article VIII and Section 5-7-30, bestow upon municipalities the authority to enact regulations for government services deemed necessary and proper for the security, general welfare and convenience of the municipality or for preserving health, peace, order and good government, obviating the requirement for further specific statutory authorization so long as such regulations are not inconsistent with the Constitution and general law of the state.”

Members of the General Assembly reacted immediately. Accusing the Court of judicial activism, the Legislature promptly began to place restrictions around local government authority.

The Local Government Fiscal Authority Act passed in 1997 specifically states that a local government could not enact a tax without legislative authorization. Legislation passed in recent years has further restricted local government’s ability to raise millage and limited the assessment of real property.

*For more information and to read transcripts of the speeches mentioned in this article, visit [www.masc.sc](http://www.masc.sc) (keyword: Home Rule).*