Local Governments and Home Rule in South Carolina

A Citizen's Guide

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**Strom Thurmond Institute
of Government and Public Affairs
Clemson University**

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by

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Before You Read This Booklet

the purpose

◗ This booklet has been written to help citizens of South Carolina understand what powers local governments in the state—counties, municipalities, and school districts—may exercise under the state constitution and legislative acts of the General Assembly. Understanding how home rule works in the state will make it clear why local governments rely so heavily on the property tax to fund services or why municipalities are not able to expand their borders easily to take in properties that benefit from municipal services.

home rule

◗ Home rule is the exercise of independent authority by elected local governments. However, no local government is completely independent of its state.

◗ The United States Constitution does not mention local governments. Each state decides for itself what kinds of local governments to allow and what powers they may exercise. Some states include the definition of home rule in their constitutions and define the forms it may take in legislation. Home rule in other states is defined simply by statute.

◗ States reserve certain powers, especially those they think should be uniform statewide.

in other states

◗ The extent and type of home rule authority granted to local governments varies considerably from state to state. A movement in the 1880s to grant local governments more freedom and flexibility and less state control brought more home rule to local governments in other states.

in South Carolina

◗ In the throes of reconstruction after the Civil War, South Carolina was not a part of the national movement toward local home rule. It was not until the 1970s that citizens of South Carolina amended the 1895 state constitution to better define and to expand the powers of local governments. Since then, local governments and the General Assembly have continued to debate about the powers of local government, especially financial powers.

◗ In some parts of the state, special purpose districts provide water, sewer, recreation, fire protection, and other urban-type services in defined areas. After the Home Rule Act in 1974, special purpose districts could no longer be formed. Instead, counties were given the ability to form special tax districts to provide services, financed by taxes levied in the service area.

◗ The Home Rule Act also prohibited the General Assembly from passing bills related to a single political subdivision. Legislators in a single county still find ways to draft bills to accomplish a particular local purpose. As a courtesy, legislators from other counties cooperate in passing such "local" legislation in spite of the prohibition.

◗ Shortly after the Home Rule Act, cities and counties found that they needed more revenue to provide local services to a growing population. In the late 1970s resistance to raising property taxes was high. The General Assembly commissioned a study of possible alternative local revenue sources. Out of that study came the statewide accommodations tax, passed in 1984, and the local option sales tax in 1990. Later the General Assembly added the local sales tax for capital projects and the local hospitality tax.

the search for new revenue sources

◗ Sometimes local governments have assumed financial home rule powers and created new revenue sources. Hilton Head Island adopted a real estate transfer tax in the 1990s which is still in effect, but the General Assembly will not allow any other municipality to adopt the tax. When cities and counties started charging impact fees on new development, the state allowed them to continue but put restrictions on how the revenue could be used.

◗ A few cities started charging hospitality "fees" on restaurant meals in the 1990s. The General Assembly conceded that such fees were taxes and were a good way of collecting revenue from tourists, so all cities were authorized to levy a hospitality tax. Those with fees were grandfathered. Again, the General Assembly specified how the revenue from this new tax could be spent.

◗ After these experiences, the legislature decided to limit the taxes available to local governments to those permitted by the legislature.

Home Rule in South Carolina

before 1974

◗ The 1895 constitution provided for counties, cities, and school districts. Cities, the oldest local governments, have more autonomy than other local governments.
◗ Counties and school districts were governed by special bills passed in the General Assembly including the county "supply bill," or budget. The General Assembly also approved requests from school districts to levy taxes for the construction of schools.
◗ The county senator along with House members, referred to as the county delegation, governed counties until 1974. The Charleston County delegation was the only one to set up a county council with some independent powers. The remnants of this system are seen today in the influence of the legislative delegation on setting funding policies for local school districts and making appointments to county boards and commissions.
◗ Elected and autonomous county government is not quite 30 years old.

the Constitution

◗ In 1973, after voters agreed, the General Assembly ratified Article 8, the Home Rule Amendment to the 1895 constitution, which expanded home rule for local governments.
◗ The authority for local government is summarized in Article 8, section 17, which provides that "all laws concerning local government shall be liberally construed in their favor. Powers, duties, and responsibilities granted local government subdivisions by this constitution and by law shall include those fairly implied and not prohibited by this Constitution."

the General Assembly

◗ The General Assembly passed the Home Rule Act in 1975. It took effect on July 1, 1976. The act made much more dramatic changes in the powers of counties than of municipalities. For the first time, the act also made intergov-

ernmental cooperation possible, because municipal and county governments now had similar powers.
◗ Since 1976 the General Assembly has regularly enacted bills that expanded, reduced or redefined the powers of local government. In recent years, local governments have resisted legislative efforts to limit their powers.
◗ Limitations on counties' ability to regulate hog farms and changes in how municipalities may structure franchise fees on the telecommunications industry, as well as proposals to restructure the state's revenue system, have been the most recent home rule conflicts between governments and the legislature.

local government

◗ The structure, functions, and financing of counties and municipalities are spelled out in the Home Rule Act. The governance, function and financing of school districts are set up in the constitution and general law, but are not part of the Home Rule Act.
◗ Municipalities and school districts, whose powers were already well defined either constitutionally or in law, experienced few changes as a result of the Home Rule Act. However, the powers of counties were significantly expanded. Existing special purpose districts continued to operate, but new districts could no longer be created.

citizens

◗ South Carolinians participate in some home rule decisions by voting on constitutional changes in the constitution in a statewide election. Such changes are proposed by the General Assembly through the legislative process.
◗ In some states, citizens have the power to tell state and local governments what to do by petitioning them to put issues on the ballot (initiative) and by voting in binding referendums to add or change laws. In South Carolina, initiative is limited to citizens of municipal and county governments on specific issues.
◗ Referendums are required when schools wish to issue bonds to fund school improvements. County referendums are used to make decisions the state has decided should be made at the local level. For example, counties can adopt the local option sales tax through referendum. The state made the choice to permit countywide referendums on the video poker issue. (The courts later ruled that the states could not delegate this decision to local government.) Adopting a capital project sales tax and issuing general obligation bonds in

excess of the constitutional limit at the local level also require referendums. Local governments cannot delegate their powers to citizens through referendums, but can use nonbinding referendums to gauge the feelings of their constituents.

conflicts over home rule

◗ Local governments have those powers not forbidden by the legislature.
◗ Local governments have only those powers which are part of the South Carolina code.
◗ From the local viewpoint, elected officials are accountable to their citizens yet are kept from responding to citizens' needs and wishes because of restrictions by the state.
◗ From the state's viewpoint, all the powers and responsibility rest with state government, which has chosen to delegate some powers to local governments.
◗ When there is conflict, the courts decide. And the General Assembly can overrule with subsequent legislation.
◗ A court decision in1995 supported the viewpoint that Charleston County had the power to levy a hospitality fee. Consequently, local governments were considered free to use a range of revenue sources not listed in the state code.
◗ The legislature responded to the Charleston County decision by amending home rule legislation to restrict governments from using any revenue sources not specified in state law.

Municipalities and Home Rule

Structure

forms of government

◗ Municipalities may choose among three forms of government: the council form, the council-manager form, and the mayor-council form. The state sets other requirements such as the number of council members, the length of terms, and conduct of elections. The state also provides procedures for changing the form of government.

◗ In the council form, executive and legislative powers are jointly exercised by the mayor and council. In most cases an administrator is hired to carry out daily business, implementing the policy and legislation of the council. This form is known as the “weak mayor” form.

◗ In the council-manager form, policy making powers are vested in the council, which includes the mayor. A professional manager makes all personnel decisions, prepares an executive budget, and implements the legislative decisions and policies of the council. The manager has executive powers that administrators do not.

◗ In the mayor-council form, the council and mayor set policy together by ordinance. However, the mayor is a strong executive with powers much like the manager’s in the council-manager form.

◗ Of South Carolina’s 268 municipalities, about 150 have the mayor-council form. This is not surprising because South Carolina has many small municipalities with limited financial resources. Fewer than 35 have chosen the council-manager form.

Incorporation

◗ New municipalities may be formed by referendum if the area to be incorporated has at least 300 persons per square mile and is at least five miles away from an existing municipality. The five-mile restriction does not apply if a neighboring municipality has turned down an unincorporated area’s request for annexation or if the neighboring city is in a different county.

consolidation

◗ Municipalities may vote to consolidate. In recent years Batesburg and Leesville joined to form Batesburg-Leesville. Pacolet and Pacolet Mills have become the new city of Pacolet.

annexation

◗ As growth occurs on municipal borders, municipalities have the powers to grow through annexation. Adjacent property owners can request annexation and be accepted by ordinance. Larger areas can be annexed by petition if 75 percent of the landowners representing 75 percent of the value of the property to be annexed agree to annexation. The area is annexed by ordinance after a public meeting and hearing.

◗ Municipalities in South Carolina would like to be able to annex "doughnut holes," areas totally surrounded by the municipality which create confusion about service provision and use many municipal services, or areas that are on their way to becoming doughnut holes.

◗ Municipalities have also asked that the percentage numbers required in the petition method of annexation be lowered.

dissolution

◗ Citizens may vote to disband a municipality.

◗ The state may disband municipalities which have not held council elections for a certain period or municipalities that have fallen below a population of 50.

structural limits

◗ South Carolina has very restrictive annexation statutes. In many states, municipalities can initiate annexation, and requirements for consent from landowners are much less strict. North Carolina's municipalities find it very easy to annex adjacent property with urban character.

Functions

◗ Municipalities make decisions about budgeting and spending, programs, service provision, and hiring or terminating workers without limitation by the legislature.

◗ Municipalities have the power to adopt ordinances, resolutions, and regulations.

◗ Municipalities must have a city clerk whose duties are outlined in law.

service provision

◗ Larger municipalities typically provide roads, law enforcement, fire protection, recreation and parks, street lights, solid waste collection, and parking lots and garages.

◗ Typically municipalities also offer some public utilities, such as water, sewer, electricity and public transportation, which are provided for in separate enterprise budgets and funded mainly on a fee for service basis.

◗ Smaller municipalities offer fewer services. Some services are provided by interlocal agreement with counties or nearby municipalities. For example, the county animal control officer may also serve some or all of the municipalities in a county. Police protection is often provided by interlocal agreement with the county.

◗ Municipalities may provide utility or other services outside their municipal limits in areas not already assigned to other service providers.

regulation

◗ Most municipalities exercise the regulatory powers granted in the constitution by passing noise ordinances, leash laws, building codes, zoning ordinances, and other regulations.

other states

◗ In some states municipalities, with the consent of counties, are allowed to exercise certain powers outside municipal limits, most commonly planning and zoning. Municipalities in South Carolina have lost this power.

functional limits

◗ Most of the functional limits imposed on municipalities relate to regulatory functions in areas such as zoning, building codes, and land use planning.

◗ State restrictions in these areas have limited the ability of municipalities to encourage innovative forms of development.

Finance, Revenues

◗ The Home Rule Act permitted municipalities to use revenue from property taxes, service charges, franchise fees, and business license taxes to support government services. Municipalities now have more sources of revenue than they did when the Home Rule Act was enacted. However, while the legislature has increased the kinds of revenue sources available, it has also limited tax rates and specified how most new revenues must be spent.

◗ New taxes and fees levied by municipalities since 1996 require a vote by a positive majority of the council.

state-shared revenues

◗ Until recently, municipalities received revenues from seven taxes collected at the state level and designated as state aid to subdivisions. Revenues from these taxes are now part of the state's general fund.
◗ In 1991, the legislature replaced state aid to subdivisions with the local government fund (LGF). Each year the LGF must by law receive at least 4.5 percent of state general fund revenues based on general fund revenues of the previous fiscal year. The new funding formula protects local governments from state midyear revenue cuts. LGF funds are distributed based on municipal population.
◗ State-shared revenues from the LGF are part of the municipal general fund and can be spent for any public purpose.
◗ Municipal fire departments receive revenue from state license fees on insurance brokers and a one percent state tax on fire insurance premiums for department use.
◗ Municipalities are reimbursed for the state phaseout of the tax on business inventories at the 1987 mill rate and assessed value of inventories.
◗ The state reimburses municipalities for revenues lost because of the $50,000 homestead exemption for the elderly.

property taxes

◗ Municipalities may levy real and personal property taxes. They may set their own tax mill rate to cover the costs of services.
◗ If a municipality wishes to raise the property tax mill rate in excess of the growth in the consumer price index, the budget ordinance must be passed by a majority of the total membership of the council, called a positive majority. The ordinance must be reviewed in a public hearing and passed at a meeting reserved only for that purpose.
◗ Assessment rates for classes of property are set in the constitution.
◗ Municipalities may exempt new manufacturing establishments from the property tax for up to five years.
◗ When the legislature changed the constitution to lower the assessment ratio on vehicles from 10.5 percent of assessed value to 6 percent at the rate of 0.75 percent a year from 2001 to 2006, municipalities saw a drop in that part of their tax base.

◗ The legislature exempts some kinds of property from taxation that are taxed in other states, such as financial assets, commodities, works of art, and other valuables.

fees, service charges, fines

◗ Business license fees and franchise fees for electricity, cable services, natural gas, and other public utilities are important sources of general fund revenue.
◗ Business license fees are based on gross receipts of any business operation within municipal boundaries.
◗ Some businesses like banks, building and loan association, credit unions, and lenders making real estate loans are exempt from business license fees.
◗ The state sets maximum franchise fees.
◗ Municipalities may use development impact fees to pay for capital costs of new development
◗ Impact fees must be spent on specific improvements that benefit the property being developed.
◗ Charges and fees support services such as recreation and building inspection, as well as utilities.
◗ Fines charged for municipal ordinance violations go into the general fund.

taxes on accommodations

◗ A 2 percent tax is levied and rebated by the state on accommodations within municipal boundaries.
◗ The state mandates that a municipality's first $25,000 in revenues from the statewide accommodations tax go to the municipality's general fund and the remainder be spent on tourism-related activities. The state lists permitted uses for accommodations taxes, most of which are for capital projects, beautification, and tourism enhancement and tourism-related services.
◗ Municipalities may levy a local accommodations tax.
◗ A municipality and county together may not levy more than a 3 percent local accommodations tax.
◗ Expenditures of the local accommodations tax monies must be related to tourism.

hospitality tax

◗ A hospitality tax up to 2 percent may be levied on the sale of prepared food and beverages.
◗ Proceeds must be used for tourism-related projects and programs.

tax increment financing

◗ Tax increment financing authorizes the redevelopment of blighted areas within a city. Municipalities keep all the increased tax revenues created by public investments in the blighted area. The extra tax revenue raised in the designated area is used to finance public improvements in the zone with the goal of expanding the tax base.

◗ Tax increment financing requires the consent of the county government and school district since they do not receive any of the increase in revenue from the tax zone for a limited period while the bonds issued for the improvements are being repaid by the municipality from increases in revenue in the zone. After the authorization for the zone expires, county government and school districts will benefit from the increased value of the properties in the zone.

local option sales tax

◗ In counties with a local option sales tax, municipalities receive a share of tax collections based on population and taxable sales in the municipal limits.

◗ At least 71 percent of revenue must be used to offset property taxes. The remainder may become part of the general fund.

limitations

◗ State control of assessment ratios and other aspects of the property tax places some limits on municipalities, but such limits are common in other states as well.

◗ While municipalities have been given access to additional local taxes and fees since the passage of the Home Rule Act, most of the revenue from these taxes and fees is earmarked for specific uses rather than the general fund.

Finance, Borrowing

◗ Municipalities are able to borrow money for long-term and short-term purposes, to refinance debt, and to borrow for emergency purposes.

short-term loans

◗ Short-term loans may be used to cover spending in anticipation of future revenue.

revenue bonds

◗ Revenue bonds can be used to finance projects that generate income, such as water and sewer treatment plants, parking garages, and recreational facilities. The bonds are repaid with the income from the project.

general obligation bonds

◗ A municipality may only borrow up to 8 percent of the assessed valuation of the municipality's taxable property. The bonds are secured by the future revenue stream of the municipality.

◗ To issue bonds in excess of the 8 percent limitation, a municipality must hold a referendum. Bonds for improvement in tax increment financing zones are not included in the bonded indebtedness limitations.

◗ The debt ceiling for borrowing through general obligation bonds was set when the property tax was the main source of municipal income. Now that income sources for counties are more diversified, the limitation is very low relative to the ability to service debt.

Counties and Home Rule

Structure

forms of government

◗ Counties may choose among four forms of government: the council form, the council-supervisor form, the council-administrator form, and the council-manager form. The state sets other requirements such as the number of council members, the length of terms, and conduct of elections. The state also provides procedures for changing the form of government.

◗ In the council form, executive and legislative powers are exercised by the council. In most cases an administrator is hired to carry out daily business, implementing the policies and legislation of the council.

◗ In the council-supervisor form, the supervisor is elected and serves as chief executive and also chairs the council. Legislative and policy-setting powers rest in the council.

◗ In the council-administrator form, the administrator serves as the chief administrative officer for the county government. The administrator executes the policies, directives, and legislative actions of the council. The council-administrator form is the most common form used by counties.

◗ In the council-manager form, the manager makes all personnel decisions, prepares an executive budget, and implements the legislative decisions and policies of the council. The manager has executive powers that administrators do not have. In this form, county council can decide to appoint the auditor and treasurer instead of have them chosen by election.

incorporation

◗ Article 8 of the constitution limits the number of counties to 46. A county must be at least 500 square miles with assessed taxable property of at least $2 million and a population of 15,000, although McCormick does not meet the population requirement.

◗ Portions of a county can seek annexation to an adjacent county. To start the process, the county council in the "losing" county may propose the change or 10 percent of the registered voters of the seceding area may petition for the change. Then the governor appoints a commission to study the request. When their work is completed, elections are held in the area seeking change and the "accepting" county. If the election is successful in both areas, the General Assembly must ratify the change.

consolidation

◗ Counties may consolidate by petition to the governor who sets a date for an election. If the citizens of both counties approve, the legislature may create a new consolidated county.

◗ In 1992, the legislature finally implemented a 1972 constitutional amendment to permit city-county consolidation. The legislation sets forth a process for accomplishing political consolidation.

structural limits

◗ Constitutionally required officers, such as the auditor, treasurer, and sheriff, are chosen in countywide elections. Although the county must provide operating funds and facilities for these officials, county government has no authority over them.

◗ Counties generally do not favor municipal annexation of additional property. However, because county powers encompass the total county, a county does not actually lose jurisdiction in municipalities as they expand. Counties continue to levy county taxes in annexed areas, as they do in any municipality in the county. Counties continue to receive the revenue from accommodations and hospitality taxes that they received before the annexation. The annexing municipality receives any growth in revenues from these taxes.

◗ The council appoints county boards and commissions with the exception of those established in the state code of laws or the constitution. School boards and boards of special purpose districts are exempt from this provision. In some cases, counties have inherited boards and commissions that were created by the legislature prior to home rule. In many cases, members of these boards and commissions, such as county boards of registration and elections and the local governing board of social services, are still appointed by legislators, but the funding comes from the county budget.

Functions

service provision

◗ Counties make decisions about budgeting and spending, programs, service provision, and employment of personnel without limitation by the legislature.

◗ Counties have the power to adopt ordinances, resolutions, and regulations.
◗ Counties provide general public works including roads, drainage, street lighting, landfills and recycling, sewage collection and treatment, planning, and economic development.
◗ Public services also may be provided by public service districts. Such districts can be created by citizens petitioning for an election or by petition only. Petitioning for an election requires signatures of 15 percent of the qualified electors in the district. Special tax districts for a particular service are also created by ordinance after petitioning by 75 percent of the owners of 75 percent of the assessed valuation of the real property in the proposed district.
◗ Counties may designate the entire county as a district for providing a service in unincorporated areas by ordinance with the exception of areas already served by an active special purpose district. County fire protection is typically provided in this way.
◗ Counties may provide for comprehensive planning, growth regulation, and implementing ordinances.
◗ A county police department that would replace or duplicate the functions of the sheriff may be established by referendum.
◗ Counties are not required to provide any specific services to county citizens, but are required to provide infrastructure for state services based in the county.
◗ Counties have a dual role as elected local governments and as agents of the state in providing services. In addition, some counties approve the budget of the county school district.
◗ Counties may join with adjacent counties, municipalities, and special service districts, or other political subdivision to provide services.
◗ Counties may contract with municipalities to provide municipal services.
◗ Unlike other local governments, county councils have significant powers and responsibilities in negotiating with firms seeking to locate or expand in the county.
◗ The county council negotiates fee-in-lieu-of tax agreements and sets up multicounty business or industrial parks, which reduce tax burdens on new firms. Most counties have an Economic Development Commission that works with prospective firms and the county council in these negotiations.
◗ Counties can also arrange for infrastructure and public services as part of the deal.

◗ The county council can negotiate changes in its own tax revenue but also school district tax revenue as well in a business location incentive package.

Finance, Revenues

◗ The Home Rule Act provided similar revenue sources to counties and municipalities, but counties make little use of business license fees and franchise fees. As new sources of revenue have been added by the state, counties have expanded their revenue tools.

◗ Counties can use special sales and use taxes not available to municipalities: the capital projects sales tax, the transportation project sales tax, and the personal property tax exemption sales tax. Counties can also use front-foot sewer development fees and tourism infrastructure admissions taxes finance infrastructure needed to support development.

◗ The legislature, while increasing sources of revenue, has limited tax rates and specified how most new revenues must be spent.

◗ New taxes and fees levied by counties since 1996 require a vote by a positive majority of the county council.

state-shared revenues

◗ Until recently, counties received revenues from seven taxes collected by the state and earmarked as state aid to subdivisions. Revenues from these taxes now are part of the state's general fund.

◗ In 1991, the legislature replaced state aid to subdivisions with the local government Fund (LGF). Each year the LGF must by law receive at least 4.5 percent of state general fund revenues based on general fund revenues of the previous fiscal year. The new funding formula protects local governments from state midyear revenue cuts. Distribution of LGF funds is based on county population.

◗ State-shared revenues from the LGF are part of the county general fund and can be spent for any public purpose.

◗ Counties receive more state aid per capita than municipalities.

◗ Counties are reimbursed for the state phaseout of the tax on business inventories at the 1987 mill rate and assessed value of inventories.

◗ The state reimburses counties for revenues lost because of the $50,000 homestead exemption for the elderly.

property taxes

◗ Counties levy real and personal property taxes. They set their own tax mill rate to cover the costs of services.
◗ If a county wishes to raise the property tax mill rate by a higher percentage than the increase in the consumer price index, the budget ordinance must be passed by a majority of the total membership of the council, called a positive majority. The ordinance must be reviewed in a public hearing and passed at a meeting reserved only for that purpose.
◗ Assessment rates for classes of property are set in the constitution.
◗ A constitutional change, approved in 2000, lowered the assessment ratio on vehicles from 10.5 percent to 6 percent of assessed value at a rate of 0.75 percent a year from 2001 to 2006. As a result, counties saw a drop in their tax base.
◗ Counties may use a fee in lieu of taxes to encourage the location of industry in the county. If an industry meets criteria set by state law, a county may set a fee based on an assessment rate that is less than the industrial rate of 10.5 percent to as low as 4 percent for a set number of years.
◗ The legislature exempts some kinds of property from taxation that is taxed in other states, such as financial assets, commodities, works of art, and other valuables.

fees, service charges, fines

◗ Business license fees and franchise fees for electricity, cable services, natural gas, and other public utilities support the general fund.
◗ Business license fees are based on gross receipts of any business operation within unincorporated areas of the county.
◗ Some businesses like banks, building and loan association, credit unions, and lenders making real estate loans are exempt from business license fees.
◗ The state sets maximum franchise fees.
◗ Counties may use development impact fees to pay for capital costs of new development.
◗ Impact fees must be spent on specific improvements that benefit the property being developed.
◗ Charges and fees support services such as recreation and building inspection, as well as utilities.
◗ Fines charged for county ordinance violations go into the general fund.

taxes on accommodations

◗ A 2 percent tax is levied and rebated by the state on accommodations within the unincorporated areas of the county.

◗ The state mandates that a county's first $25,000 in revenues from the statewide accommodations tax go to the municipality's general fund and the remainder be spent on tourism-related activities. The state lists permitted uses for accommodations taxes, most of which are for capital projects, beautification, and tourism enhancement and tourism-related services.
◗ Counties may levy a local accommodations tax.
◗ A municipality and county together may not levy more than a 3 percent local accommodations tax.
◗ Expenditures of the local accommodations tax monies must be related to tourism.

hospitality tax

◗ A hospitality tax up to 2 percent may be levied on the sale of prepared food and beverages. A municipality and county together may not levy more than a 2 percent hospitality fee.
◗ Proceeds must be used for tourism-related projects and programs.

tax increment financing

◗ A constitutional amendment in 1998 enabled counties to use tax increment financing, available to municipalities since 1984.
◗ Tax increment financing authorizes the redevelopment of blighted areas within a county. Counties keep all the increased tax revenues created by public investments in the blighted area. The extra tax revenue raised in the designated area is used to finance public improvements in the zone with the goal of expanding the tax base.
◗ Tax increment financing requires the consent of the school district since the district does not receive any of the increase in revenue from the tax zone for a limited period while the bonds issued for the improvements are being paid by the county with increases in revenue in the zone. After the authorization for the zone expires, school districts will benefit from the increased value of properties in the zone.

local option sales tax

◗ Twenty-seven counties have adopted a local option sales tax. Counties share the proceeds with municipalities. The county share is based on population and taxable sales in the unincorporated parts of the county.
◗ At least 71 percent of local option sales tax revenue must be used to offset property taxes. The remainder goes into the general fund.

local sales taxes

◗ ***capital projects sales tax*** County council, after a referendum, may impose a one percent sales countywide for seven years for any of the capital projects listed in the law. Before the referendum, a commission of county and municipal members develops the proposed list of projects and drafts the question to appear on the ballot.

◗ Bonds for capital projects financed by this sales tax are not affected by the 8 percent debt limitation.

◗ This tax cannot be considered if the county has already passed a transportation project sales tax.

◗ ***transportation project sales tax*** County council, after a referendum describing the projects to be funded, may impose a one percent sales tax for up to 25 years to pay for transportation and transportation-related infrastructure. This tax is in addition to all other local sales taxes.

◗ The county is also authorized to use tolls for financing transportation infrastructure.

◗ ***personal property tax exemption sales tax*** This tax is designed to provide personal property tax relief from the tax on vehicles for all county residents. Up to 2 percent may be levied according to a complex procedure outlined in the law. The tax may be imposed in addition to any other local sales tax.

◗ This tax may not be used to offset the effect of the reduction in personal property tax from 10.5 percent to 6 percent.

front-foot sewer development fee

◗ Counties may use a front-foot or per parcel assessment to construct sewer lines. Under certain conditions the money may be used for maintenance, repair and replacement.

limitations

◗ State control of assessment ratios and other aspects of the property tax places some limits on counties, but such limits are common in other states as well.

◗ While counties have been given access to additional local taxes and fees since the passage of the Home Rule Act, most of the revenue from these taxes and fees is earmarked for specific uses rather than the general fund.

Finance, Borrowing

◗ Counties are able to borrow money for long-term and short-term purposes, to refinance debt, and to borrow for emergency purposes.

short-term loans

◗ Short-term loans may be used to cover spending in anticipation of future revenue.

revenue bonds

◗ Revenue bonds can be used to finance projects that generate income, such as water and sewer treatment plants, parking garages, and recreational facilities. The bonds are repaid with the income from the project.

general obligation bonds

◗ A county may only borrow up to 8 percent of the assessed valuation of the county's taxable property. The bonds are secured by the future revenue stream of the municipality.

◗ To issue bonds in excess of the 8 percent limitation, a county must hold a referendum. Bonds for improvement in tax increment financing zones are not included in the bonded indebtedness limitations.

◗ The debt ceiling for borrowing through general obligation bonds was set when the property tax was the main source of county income. Now that income sources for counties are more diversified the limitation is very low relative to the ability to service debt.

School Districts and Home Rule

◗ School districts have limited home rule. They were not included in the provisions of the Home Rule Act.
◗ The structure and financial authority of each school district were determined by the General Assembly by special legislation, so their structure and fiscal powers are very diverse.
◗ The Education Finance Act (1977) defines a foundation program for education and details the responsibility of the state and local districts for financing elementary and secondary education on a formula basis.
◗ The Basic Skills Assessment Act (1978) provided for standardized testing for students.
◗ The Educator Improvement Act (1979) increased standards for teachers.
◗ The Educational Improvement Act (1984) provides funding for programs raising student performance, emphasizing basic skills, evaluating the teaching profession, rewarding productivity, and constructing school buildings.
◗ The Education Accountability Act (1998) sets up a performance accountability system for public education to improve teaching and learning to provide a strong academic foundation for students.

Structure

governance

◗ School districts are governed by school boards of directors.
◗ Most districts directly elect school board members. However, board members are appointed in seven of the 85 districts. In Clarendon One, five seats are elected and four appointed.
◗ In five multidistrict counties, county boards of education have some responsibility for education.
◗ In Clarendon County and Dillon County, the legislative delegations appoint county boards which make appointments to the Clarendon One and Two and Dillon One, Two, and Three school boards. Marion County's county board is elected and appoints school board members and has fiscal authority

over Marion One, Two, and Three. The Anderson County Board of Education has fiscal authority over five local school boards; Orangeburg County's county board has limited fiscal authority over the county's three districts.
◗ All school districts employ a superintendent of schools to administer board policies and manage day-to-day operations of the school district.

configuration

◗ Twenty-nine districts follow county lines. Seventeen counties have multiple districts. Ten school districts also serve small parts of neighboring counties.
◗ Eighty-five districts provide education services in the state. In recent years, six smaller districts in counties with multidistricts have consolidated with neighboring districts. Before desegregation, the state had hundreds of school districts, which were consolidated in the 1950s.

other states

◗ In seven states, including North Carolina, Tennessee, and Virginia, schools are a county responsibility. Municipalities or townships are responsible for public schools in eleven states. In other states, school districts are independent often but not always with fiscal autonomy.
◗ When other levels of government have responsibility for schools, officials can take into account both the needs of schools and of other public services when budgeting and setting tax rates. However, schools may get more concentrated attention when a board is elected solely to supervise public education.

Functions

powers

◗ School districts are expected to provide education from kindergarten through twelfth grade and various support and adjunct services such as vocational education, adult education, transportation, and school lunches.
◗ Although highly regulated by the state, school boards hire and fire teachers and administrators, including the superintendent, and have some discretion over teacher salaries.
◗ School boards plan the school construction program and how to fund it.
◗ School boards can also decide whether to offer a program for pre-kindergarteners and whether to offer locally funded after-school care.
◗ In many cases, school boards set the budget and the mill rate.
◗ When state funding is insufficient, local school boards may be granted more flexibility in determining class size and other factors that affect their costs.

limitations

◗ School boards and school districts are highly regulated by the state in virtually every aspect of what they do from the acreage requirements for a school campus to class size.
◗ Teacher qualifications, their minimum pay and benefits, curriculum, instructional days, and time requirements for classes are decided by the state.
◗ The state supplies a list of approved textbooks and sets the course and performance requirements for high school graduation.
◗ The state sets minimum standards for library books per pupil and other educational services.
◗ Federal aid imposes additional requirements, such as nutritional quality of school lunches and specialized services for special needs students.

Finance, Revenues

◗ The variety of special taxes available to municipalities and counties are not permitted to school districts.
◗ In other states, school districts receive local sales tax revenue, wage taxes, income taxes, and construction impact fees.
◗ Because school districts have few alternative revenue sources, reductions in state funding often cause higher fees for extracurricular activities and field trips or more use of fund-raising activities by volunteers.
◗ Public education is the largest local expenditure and the largest state expenditure in almost every state. In fact, the South Carolina legislature is required by law to spend at least 50 percent of the general fund budget on elementary and secondary education.

sources

◗ School districts in South Carolina are limited in the ways they can raise money. They rely primarily on state aid and the local property tax to fund education. When more funds are needed for education, some districts with fiscal autonomy can respond to the need immediately. But, the process of raising property tax revenues is more complex in other districts.
◗ State formulas set a minimum local share of funding based on a district's ability to raise funds. Raising a local share is required to receive state funding.
◗ The legislature has exempt the first $100,000 of the market value of all owner-occupied houses from property taxes for education at the tax millage rate in effect in 1995 when the exemption was granted. The state does not fully fund the exemption, so some of the cost falls on school districts.

◗ School districts are reimbursed for the state phaseout of the tax on business inventories at the 1987 mill rate and assessed value of inventories.
◗ The state reimburses school districts for revenues lost because of the $50,000 homestead exemption for the elderly.

fiscal authority

◗ Twenty-three districts in thirteen counties have total fiscal independence to approve their own budgets and set their own mill rates:

Aiken, Berkeley, Charleston, Cherokee, Chester, Darlington, Edgefield, Georgetown, Horry, Lexington One through Five, Marlboro, Spartanburg One through Seven, and Union.

◗ Twenty-nine districts have no fiscal authority:

In Dillon One, Two, and Three the legislative delegation approves the budget.

In Florence Two, Three, and Five the budget is approved in town meetings.

Fourteen county councils approve budgets of 20 school districts:

Beaufort, Calhoun, Clarendon One through Three, Colleton, Greenwood Fifty through Fifty-Two, Hampton One and Two, Jasper, Lee, McCormick, Oconee, Richland One and Two, Saluda, and Sumter Two and Seventeen.

Three districts need special legislation to exceed legislative caps:

Abbeville and Kershaw need council approval to exceed a cap.
Florence One must hold a referendum to increase millage.

◗ Thirty-three districts have limited fiscal authority. Special legislation has given them the ability to raise taxes by formula or up to a limited mill increase. To exceed limitations, some must seek approval through referendums, county council, the legislative delegation, or the county board of education.

Finance, Borrowing

bonds

◗ School districts can borrow through general obligation bonds to finance construction programs. Borrowing is limited to a maximum of 8 percent of the district's assessed property value. To exceed the limitation, a referendum is required.
◗ School districts may issue short-term tax anticipation notes to provide an income flow until tax revenues, with a fiscal year starting July 1, become available in November.

Conclusion

home rule after 35 years

◗ Home rule came to South Carolina's municipalities and counties, in part, as an emergency response to court decisions mandating "one man, one vote" representation in government. The county legislative delegation could no longer function as it had because senators could no longer represent a specific county and House members' districts were no longer drawn according to county boundaries. Since then a patchwork of local control and state involvement in local affairs has plagued local governments.

◗ Home rule never came to school districts, resulting in a system of large and small districts with varying degrees of fiscal independence.

◗ Municipalities have the highest degree of home rule but are confined within inflexible boundaries, finding it difficult to expand and include the urban area that is the "natural" city.

◗ Of all the unresolved home rule issues, each type of local government has one especially pressing issue. For school districts it is fiscal autonomy. For municipalities it is annexation rules. For counties, it is maintaining the ability to control land use, specifically to regulate hog and chicken farms locally. For all three, there is the overriding issue of having access to a greater variety of revenue sources that are under local control without the legislators making decisions about revenue sources that cut local revenues.

◗ Local public officials are elected, just as legislators are. If local officials are to be accountable to voters for what they do or fail to do, they must have the power to make and carry out decisions.

◗ Local governments in South Carolina have more powers than 35 years ago, but there are still some unresolved areas of conflict over who calls the shots.

What Can a Citizen Do?

the challenge

◗ A democratic system of government depends on the participation of informed citizens. Citizens who are aware and informed on public issues are an important counterweight to special interests seeking more money for their own purposes or trying to lower their own tax burdens or regulatory constraints. Citizens must represent the general interests when decisions are being made not only about the appropriate level of taxes, but also the quality of public services like education, transportation, public safety, and sewer provision.

supporting home rule

◗ Citizens who support home rule can take steps to make it work better.
◗ Get actively involved in local government. Attend meetings of the city council, county council, or school board. Find out what issues they are addressing and express your views.
◗ Visit local government Web sites to find out what is happening. Attend public hearings. Volunteer to serve on a board or commission or even run for office. Local government is only as accountable as citizens demand it to be.
◗ Talk to local government officials about what kinds of home rule concerns they have about limitations on their ability to govern. Ask how you can make a difference.
◗ If a referendum is scheduled, get informed and help others to do the same.

get information

◗ For state legislation, go to www.scstatehouse.net or the government section of the state Web page, www.firstgov.com.
◗ For municipal research, resources, and legislative alerts on municipal home rule issues, go to www.masc.sc, the Municipal Association's Web site.
◗ For county publications and legislative information on county home rule issues, go to www.sccounties.org, the SC Association of Counties' Web site.
◗ For reports and advocacy resources on school district issues on home rule, go to www.scsba.org, the Web site of the SC School Boards Association.