



The Challenge of Effectiveness: Local Government in the United States

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Iowa state judge John Dillon shaped the constitutional and legal life of local governments in the United States in an 1868 ruling that asserted that municipal governments are the sole creation of state legislatures.

“Municipal corporations owe their origin to, and derive their powers and rights wholly from, the legislature,” wrote Judge Dillon. “It breathes into them the breath of life, without which they cannot exist. As it creates, so it may destroy.”

States have, however, designed greater or lesser spheres of autonomy within which their local governments may operate. Whether the state grants broad expanses of authority under liberal “home rule” status or severely restricts scope and authority, states can ultimately control their local governments.

Until the Great Depression of the 1930s, the relationship between federal and local governments was not very direct or sustained. The New Deal, a series of federal actions implemented during the Great Depression, changed this relationship significantly by expanding federal aid to local governments, especially in areas traditionally thought to be of local concern such as public works and then later in housing, health and welfare, and education. The federal government can impose rules and

regulations either statutorily or as a condition of a grant-in-aid, and regulate the behaviour of local governments through powers of partial preemption and direct orders.

As creatures of their states, local governments are assigned functional responsibilities, enabled to create governing institutions with rule-making powers, and granted revenue-raising authority. These assignments are not uniform across all 50 states, however. Some states assign the education function to counties and cities in “dependent” education systems while a majority has created single-purpose “independent” school districts. Only Hawaii directly administers public education. County governments are general-purpose local governments, created as administrative arms of the states, but function fairly autonomously with elected officials or commissioners who adopt budgets, raise revenues, and pass local ordinances. Municipal corporations (cities, towns, boroughs or villages) are also general-purpose governments. Their elected bodies, called councils, have budgeting, revenue-raising and law-making powers. The precise assignment of functions to municipal and county governments varies by state. For example, while most cities experience an overlay of county government, in Virginia cities exist independently of counties.

Generally, municipal corporations are charged with protecting life and property, typically through public safety provisions including fire protection, police, and emergency medical services, zoning and land-use powers, and local public works including streets, water and sewer systems. Counties’ functions include those of the municipalities as well as welfare, prisons, roads and, in some states, education. Townships, which are subdivisions of counties, form local governments in only 20 states and have only limited responsibilities in most states, typically for roadways and police services. In Pennsylvania and New Jersey, townships can assume general government powers, much like municipalities.

Since 1946, the number of local governments has grown dramatically to 87,849 in 2002. Yet these numbers mask a wide variation in the composition of local governments. School district consolidations over the past 50 years, for example, reduced their numbers from well over 100,000 post-World War II, to only 13,522 in 2002. Special districts experienced a contradictory trend, surging to 35,356 in 2002 – an increase of 187 percent since 1952.

Variances in other local governments are also remarkable. Compare today’s 19,431 municipal governments with the 16,087 enumerated in 1952. Counties have consolidated, losing only 18 since 1952 for a current total of 3,034, while the number of townships has declined somewhat to 16,506 from 17,202 in 1952.

Although nearly all local governments have the legal authority to collect a property tax, their reliance on this form of taxation has waned during the last several decades. Gradual adoption of other forms of general

taxing authority, especially local-option taxes on retail sales and on income, has diversified revenue structures for counties and municipalities. School districts and townships remain highly property-tax dependent. Local governments are also permitted to charge a fee for certain services. Such fees, or user charges, have become the fastest growing and most important type of own-source revenue for counties and municipalities.

In the nineteenth century, the Industrial Revolution moved people and manufacturing enterprises into close proximity. This gave rise to larger and larger towns and cities and provided the impetus for government-provided services such as potable water, efficient transportation systems and common schooling. As local governments and regions expanded, there was a heightened awareness of the need to either cooperate or compete with neighboring local governments.

In this way, local governments learned to combine or merge activities when circumstances warranted, such as capturing economies of scale. This practice is illustrated by the merging of five boroughs in the metropolitan area of what is now New York City, the combination of certain services in the Indianapolis region under Unigov, and the consolidated services and governing structures of Nashville-Dade County.

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Local governments may also adapt by remaining separate governments, while cooperating with other local governments within their region. Services may be provided through voluntary contractual arrangements called interlocal agreements. Local governments can also create public authorities, with state approval, for infrastructure revenue-raising purposes, such as debt issuance. They may also incorporate themselves under enabling legislation at the state level to form new local governments, such as special districts, to provide specific services. And local governments operate within an increasingly prevalent, albeit

uneasy, arrangement with gated communities, residential areas enclosed by walls and fences, which provide many services that duplicate municipal or county services such as street cleaning, safety, refuse removal and parks.

The layers of horizontal and vertical governments – as well as the layers of non-profit organizations that contract with state and local governments for the purpose of providing “government” services, not to mention the growing importance of community residential associations that provide services and organize themselves as “private governments” – these tens of thousands of legal organizations fragmenting and splintering across the landscape present challenges to the stability and effectiveness of local and regional governments in the federal polity.