

MINNESOTA

CONSTITUTIONAL AND STATUTORY PROVISIONS

Minnesota Constitution

- Article XII. Special Legislation; Local Government.

§ 1. Prohibition of special legislation. In all cases when a general law can be made applicable, a special law shall not be enacted except as provided in section 2. Whether a general law could have been made applicable in any case shall be judicially determined without regard to any legislative assertion on that subject. The legislature shall pass no local or special law authorizing the laying out, opening, altering, vacating or maintaining of roads, highways, streets or alleys; remitting fines, penalties or forfeitures; changing the names of persons, places, lakes or rivers; authorizing the adoption or legitimation of children; changing the law of descent or succession; conferring rights on minors; declaring any named person of age; giving effect to informal or invalid wills or deeds, or affecting the estates of minors or persons under disability; granting divorces; exempting property from taxation or regulating the rate of interest on money; creating private corporations, or amending, renewing, or extending the charters thereof; granting to any private corporation, association, or individual any special or exclusive privilege, immunity or franchise whatever or authorizing public taxation for a private purpose. The inhibitions of local or special laws in this section shall not prevent the passage of general laws on any of the subjects enumerated.

§ 2. Special laws. Every law which upon its effective date applies to a single local government unit or to a group of such units in a single county or a number of contiguous counties is a special law and shall name the unit or, in the latter case, the counties to which it applies. The legislature may enact special laws relating to local government units, but a special law, unless otherwise provided by general law, shall become effective only after its approval by the affected unit expressed through the voters or the governing body and by such majority as the legislature may direct. Any special law may be modified or superseded by a later home rule charter or amendment applicable to the same local government unit, but this does not prevent the adoption of subsequent laws on the same subject. The legislature may repeal any existing special or local law, but shall not amend, extend or modify any of the same except as provided in this section.

§ 3. Legislation affecting. The legislature may provide by law for the creation, organization, administration, consolidation, division and dissolution of local government units and their functions, for the change of boundaries thereof, for their elective and appointive officers including qualifications for office and for the transfer of county seats. A county boundary may not be changed or county seat transferred until approved in each county affected by a majority of the voters voting on the question.

§ 4. Home rule charters. Any local government unit when authorized by law may adopt a home

rule charter for its government. A charter shall become effective if approved by such majority of the voters of the local government unit as the legislature prescribes by general law. If a charter provides for the consolidation or separation of a city and a county, in whole or in part, it shall not be effective without approval of the voters both in the city and in the remainder of the county by the majority required by law.

- MINN. STAT. § 410 covers charter cities; § 412 governs statutory (non-charter) cities.

HOME RULE STRUCTURE, INCLUDING LACK OF IMMUNITY FROM STATE PREEMPTION

As a general rule, in matters of municipal concern, Minnesota home-rule cities have all the legislative power possessed by the state legislature, save such power that has been expressly or impliedly withheld.¹ The constitution and statutes speak little of powers; hence, the charter defines a home-rule city's power. Non-home-rule, or statutory, cities, by comparison, have less control over their form of municipal government and must choose one of three forms from a statutory menu.²

Although the Minnesota courts speak of "municipal concern," it does not appear that this serves as a limitation on local initiative power. Indeed, in some cases the Minnesota Supreme Court has assumed that local initiative power is co-extensive with the police power.³ At least for municipalities with a general welfare clause in their charters, the clause "will be construed liberally to allow effective self-protection by the municipality."⁴

There is no line of cases articulating the possibility of immunity to express preemption of local law by the legislature, and the courts recognize implied preemption in defined circumstances.⁵ In a supreme court decision upholding the preemption of a Minneapolis domestic-partner benefits ordinance, one justice dissented on the grounds that "the grant of medical benefits to city employees is solely of local concern and pertaining to management of municipal government,"⁶ but this dissent appears to have been a voice in the judicial wilderness.

While the state legislature can pass special legislation that "applies to a single local governmental unit or to a group of such units in a single county," the local government can modify or repeal the measure with a later home rule charter or amendment.⁷ The state constitution provides a default rule requiring that a local government approve special legislation,

¹ State ex rel. Town of Lowell v. City of Crookston, 91 N.W.2d 81 (Minn. 1958).

² Minn. Stat. § 412 (2017) (offering a standard governance plan and an "Optional Plan A" and "B").

³ E.g., Mangold Midwest Co. v. Village of Richfield, 143 N.W.2d 813, 815 (Minn. 1966) (noting that ordinances are passed by municipalities "in the exercise of the police power").

⁴ *Id.* at 820.

⁵ *Id.* at 816 (articulating standards for conflict preemption).

⁶ Lilly v. City of Minneapolis, 527 N.W.2d 107, 115 (Minn. 1995).

⁷ MINN. CONST. art. XII, § 2; Davies v. City of Minneapolis, 316 N.W.2d 498 (Minn. 1982) (concluding that a law requiring that any new sports facility be located in Hennepin county was special legislation).

but the state legislature has modified the rule by statute to create exceptions for the following scenarios: (1) a law enabling local governments to exercise authority not granted by general law (2) a law repealing a special law and bringing a local government into the general law; and (3) a law applying to a unit or units of more than one million people.⁸

In an interesting recent case involving local governmental structure, the Minnesota Supreme Court rejected the request of petitioners to force the Minneapolis city council to put a charter amendment on the ballot that would raise the minimum wage.⁹ Although enough voters petitioned for a city charter amendment, the court held that it was an improper exercise of authority. The Minneapolis charter did not vest in citizens the authority to submit ordinances to the council by petition and, instead, provided that the city council would exclusively hold general legislative authority.¹⁰ Thus, the court reasoned, citizens could not exercise “legislative and policymaking authority” by charter amendment.¹¹ It thus appears that to pass a minimum wage ordinance with a resident-led initiative, the residents of Minneapolis must first authorize themselves through a charter amendment to pass ordinances by initiative.

⁸ MINN. STAT. § 645.023(1) (2017).

⁹ *Vasseur v. City of Minneapolis*, 887 N.W.2d 467 (Minn. 2016).

¹⁰ *Id.* at 470-71.

¹¹ *Id.* at 474.