

CONNECTICUT

CONSTITUTIONAL AND STATUTORY PROVISIONS

The constitution authorizes the state legislature to delegate home-rule powers to cities, towns, and boroughs by statute. Since 1960, counties in Connecticut have been mere geographical units, with no independent government.¹

Connecticut Constitution

- Art X, § 1. Delegation of legislative authority to political subdivisions. Terms of town, city and borough elective officers. Special legislation

The general assembly shall by general law delegate such legislative authority as from time to time it deems appropriate to towns, cities and boroughs relative to the powers, organization, and form of government of such political subdivisions. The general assembly shall from time to time by general law determine the maximum terms of office of the various town, city and borough elective offices. After July 1, 1969, the general assembly shall enact no special legislation relative to the powers, organization, terms of elective offices or form of government of any single town, city or borough, except as to (a) borrowing power, (b) validating acts, and (c) formation, consolidation or dissolution of any town, city or borough, unless in the delegation of legislative authority by general law the general assembly shall have failed to prescribe the powers necessary to effect the purpose of such special legislation.

Connecticut Statutes

- CONN. GEN. STAT. § 7-188 (2017). Initiation of action for adoption, amendment or repeal of charter or home rule ordinance.

(a) Any municipality, in addition to such powers as it has under the provisions of the general statutes or any special act, shall have the power to (1) adopt and amend a charter which shall be its organic law and shall supersede any existing charter, including amendments thereto, and all special acts inconsistent with such charter or amendments, which charter or amended charter may include the provisions of any special act concerning the municipality but which shall not otherwise be inconsistent with the constitution or general statutes, provided nothing in this section shall be construed to provide that any special act relative to any municipality is repealed solely because such special act is not included in the charter or amended charter; (2) amend a home rule ordinance which has been adopted prior to October 1, 1982, which revised home rule ordinance shall not be inconsistent with the constitution or the general statutes; and (3) repeal any such home rule ordinance by adopting a charter, provided the rights or benefits granted to any individual under any municipal retirement or pension system shall not be diminished or

¹ Rute Pinho, Office of Legislative Research, Research Report, County Government in Connecticut, Dec. 23, 2015, available at <https://www.cga.ct.gov/2015/rpt/pdf/2015-R-0274.pdf>.

eliminated. * * *

- *Id.* § 7-191a. Adoption of home rule ordinance.

Any home rule ordinance in effect on Oct. 1, 1982, shall be part of the organic law of the municipality and the special act superseded thereby and any other special act relating to the government of such municipality inconsistent therewith are repealed.

- *Id.* § 7-192a. New tax not authorized by general statutes prohibited. Provisions affecting elections and electors not to be adopted.

No provision of this chapter shall be deemed to empower any municipality to levy or collect any tax not authorized by the general statutes or to adopt a charter, charter amendments or home rule ordinance amendments which shall affect matters concerning qualification and admission of electors; duties and responsibilities of registrars of voters; duties and responsibilities of town clerks with respect to electors, voting and elections; forfeiture of electoral rights and restoration of the same; absentee voting; conduct of and procedures at elections; hours of voting; canvass of electors; preliminary, final and supplementary registry lists; warning of elections; election officials and their duties and responsibilities; election canvass and returns; election contests; corrupt practices; prohibited acts with respect to elections; nomination of candidates; adoption and amendment of party rules; primaries; and political parties and enrollment therein.

- *Id.* § 7-194. Powers.

Subject to the provisions of section 7-192, all towns, cities or boroughs which have a charter or which adopt or amend a charter under the provisions of this chapter shall have the following specific powers in addition to all powers granted to towns, cities and boroughs under the constitution and general statutes: To manage, regulate and control the finances and property, real and personal, of the town, city or borough and to regulate and provide for the sale, conveyance, transfer and release of town, city or borough property and to provide for the execution of contracts and evidences of indebtedness issued by the town, city or borough.

HOME RULE STRUCTURE

The Connecticut constitutional home rule provision is ambiguous with respect to whether it requires (“shall”) or merely allows the state legislature (“from time to time”) to establish a system of home rule by statute. Regardless, the state legislature has established a system of home rule that enables municipalities to conduct their own business and control their own affairs “to the fullest possible extent in their own way.”²

² Bd. of Educ. of Town and Borough of Naugatuck v. Town and Borough of Naugatuck, 843 A.2d 603, 612 (Conn. 2004) (citations omitted).

A general law, in order to prevail over a conflicting charter provision of a city having a home rule charter, must pertain to those things of general concern to the people of the state, and it cannot deprive cities of right to legislate on purely local affairs germane to city purposes.³ General laws may preempt local ordinances expressly or by occupying the field or conflicting with local laws.⁴ The legislature is free to pass legislation that preempts the ordinance of only one town if the law in question addresses a statewide concern.⁵

IMMUNITY FROM STATE PREEMPTION

Despite the fact that local government powers derive more from state statute than from the state constitution, Connecticut courts nonetheless recognize some sphere of “local” authority that the state legislature may not preempt. The two interrelated areas that Connecticut courts have recognized as protected “local concerns” are the organization of local government (structural) and procedures for local budgeting, which sits at the intersection of fiscal and structural.⁶

In an illustrative case, the town of Naugatuck held separate referenda for its education and general budgets in violation of a state law.⁷ When the town’s board of education sued the town, the state supreme court held that the town’s idiosyncratic procedure was immune to preemption because “in an area of local concern, such as local budgetary policy, general statutory provisions must yield to municipal charter provisions governing the same subject matter.”⁸ The court declined the plaintiff’s invitation to frame the issue as one of education, which is a statewide concern, opting instead to characterize it as “the procedure [that the town] employs in adopting the education component of the budget, which is not *itself* a matter of statewide concern.”⁹

³ *Id.* at 612 (quoting *Caulfield v. Noble*, 178 Conn. 81, 87 (1979)); *Pereira v. State Bd. of Educ.*, 37 A.3d 625, 696-97 (Conn. 2012) (In matters that are primarily of state concern, the legislature can act “free of any restriction contained in the home rule charter,” including “touching on a matter of statewide concern in one city and not in another [if] the classification is proper.”).

⁴ *Modern Cigarette, Inc. v. Town of Orange*, 774 A.2d 969, 977-78 (Conn. 2001).

⁵ *City of Shelton v. Comm’r of Dep’t of Env’t. Protection*, 479 A.2d 208, 216 (Conn. 1984);

⁶ *See Windham Taxpayers Ass’n v. Board of Selectmen of Town of Windham*, 662 A.2d 1281, 1293-94 (Conn. 1995) (holding that issue of whether town must hold referendum despite charter provision to contrary “is of purely local interest”); *id.* at 1293 (characterizing earlier decisions of the supreme court as holding “that the organization of local government or local budgetary policy is a matter of local concern”).

⁷ *Bd. of Educ. v. Town & Borough of Naugatuck*, 843 A.2d 603 (Conn. 2004).

⁸ *Id.* at 613.

⁹ *Id.*