Trends in State-Local Relations

By Joseph F. Zimmerman

Local governments in the United States are the most important providers of services to their respective residents and also are major regulators of business firms and individuals. The U.S. is home to 89,476 local governments: 3,033 counties, 19,492 municipalities, 16,519 towns and townships, 37,381 special districts and 13,051 independent school districts. Powers exercisable by individual local governments vary considerably and are determined by the state constitution, state statutes, state administrative regulations and court decisions.

Historically, local governments in the U.S. were subject to the English Common Law Ultra Vires Rule, which posits they are creatures of the state and subject to its control. Voters in 41 states, however, have approved constitutional amendments forbidding the state legislature to enact a statute affecting a single local government without its consent. Voters also have approved constitutional amendments establishing home rule for some or all general-purpose local governments in a state. The first home rule type established an imperium in Imperio, a constitutional division of exercisable powers between the state government and home rule local governments. The second type, devolution of powers, is established by a constitutional amendment directing the state legislature to devolve all powers capable of devolution to general-purpose local governments subject to state legislative pre-emption by a general law.

State Actions

Counties and municipalities in recent years have been enacting ordinances designed to reduce growing obesity levels and to improve public health. Restaurant associations responded by lobbying state legislatures to enact statutes pre-empting such local government regulation. The Arizona State Legislature in 2011 enacted a statute forbidding local governments to prohibit fast food marketing using consumer incentives such as toys. The Ohio General Assembly in the same year established limits on the authority of local governments to regulate restaurants, but a state court ruled in 2012 the limits conflicted with the home rule provisions of the state constitution and were invalid. The 2011 Florida Legislature enacted a law restricting the authority of general-purpose local governments to regulate the marketing of foods in hotels and restaurants.

The California Commission on State Mandates in 2010 ruled that specified provisions in two municipal storm water permits constituted reimbursable state mandates. Voters in 2010 approved Proposition 13 prohibiting tax assessors from re-evaluating new construction designed to seismically retrofit a building. California voters in the same year rejected Proposition 16 that would have required approval by two-thirds of voters to authorize a local government to become a retail provider of electric power.

California Gov. Jerry Brown in 2011 signed into law a bill prohibiting local governments from banning circumcision. Ban supporters collected the requisite number of initiative petitions signatures to place the ban on the November ballot, but a state Superior Court judge invalidated the petition.

The Connecticut State Board of Education in 2011 approved the request of the president and five other members of the Bridgeport School Board to replace all nine elected members with appointed members because the board had become dysfunctional. Some parents filed a lawsuit against the state action, and the state Supreme Court in 2012 opined the state action violated state law because the dismissed board members had not received training as required by state law. The court reinstated the five members whose terms had not expired and ordered a special election to fill the four remaining seats.

The 2011 Illinois General Assembly enacted a statute authorizing legislative leaders to appoint 12 members and the governor to appoint five members to a new Local Government Consolidation Commission charged with conducting a study and issuing a report by Dec. 31, 2012. The General Assembly in 2011 also enacted a statute, prompted by scandals, authorizing increased county control of boards and commissions by requiring the same controls and standards for ethics, finance, personnel
and purchasing that apply to county departments be applied to all county boards and commissions. The Illinois Board of Education in 2012 removed the elected school boards in East St. Louis and North Chicago school districts for failure to meet the federal No Child Left Behind standards for 11 years. The board authorized the state education superintendent to appoint a five-member replacement panel in each school district.

The 2010 Massachusetts General Court (state legislature) established a state commission to study and recommend improvements in the administration and finances of the 14 sheriffs’ offices.

New Hampshire Gov. John Lynch in 2010 vetoed a bill that would have repealed the optional authority of cities and towns to license handgun sales. The New Hampshire Department of Revenue Administration in 2012 ruled the Town of Middleton had appropriated more than 10 percent of the amount recommended by the budget committee, a violation of revised statutes annotated §32:8, and for the same reason invalidated $418,956 in spending authorized by the Winchester town meeting.

Poor performing public schools in Newark, N.J., were brought under state control in 1995 and the school board became an advisory body. The Newark schools’ dropout rate and test scores today are among the lowest in the state. State laws enacted in 2005 and 2007 allowed the district to regain control of the system. Although the state continues to control the curriculum, the district has regained control over building maintenance and safety.

The 2010 New Jersey General Assembly enacted a law allowing increased local government spending and property taxes subject to a 2 percent cap that may be exceeded if approved by 50 percent of the voters. The exceptions are capital expenditures and debt service, pension contributions and accrued liability, health care costs and extraordinary costs associated with a declared emergency. The state council on local mandates in 2012 invalidated a state anti-bullying law on the grounds that it was an unfunded mandate on local governments and school districts.

The New York State Legislature in 2011 enacted a law providing for the establishment of municipal land banks to assume control of problem properties and to develop or dispose of them. The New York legislature in 2012 authorized the Albany County sheriff to enter into agreements to house out-of-state prisoners at the county jail.

North Dakota voters in 2012 rejected Measure 2, a constitutional amendment eliminating property taxes and directing the replacement of lost revenues with state funds.

Texas voters in a 2011 state referendum approved Proposition 5, a constitutional amendment authorizing cities and counties to enter into interlocal governmental contracts for more than one year without levying new taxes and creating sinking funds.

State Mandates

State mandates on local governments, as distinguished from conditions attached to state grants-in-aid, remain the major irritant in state-local relations.

New York has the most mandates on local governments, including school districts. The New York State Legislature in 2012 created a Mandate Relief Council that established a website allowing residents and local governments to submit a form identifying mandates that can be eliminated or modified. Gov. Andrew Cuomo’s 2013 fiscal year budget includes a new lower cost public pension tier for future public employees and state assumption of responsibility for the growth in Medicare costs imposed on county governments. The council also is reviewing regulations that no longer serve their original purpose(s) or have become too expensive.

Texas Gov. Rick Perry on Feb. 25, 2011, established a Task Force on Unfunded Mandates charged with identifying unfunded mandates and advancing recommendations to eliminate or reduce the impact of mandates. The task force on May 6, 2011, issued a report relative to mandates on cities recommending flexibility for purchases of firefighting equipment, ensuring basic water supplies in emergencies, allowing local governments to retain proceeds from red light cameras and to regulate public swimming pools, eliminating mandates for local government health plans, changing records management rules to guidelines, allowing local courts to recoup the administrative costs of collecting specified state fees, exempting local government-owned vehicles from state licensure and inspection, and permitting local governments to inspect, license and maintain boilers, refrigeration units, elevators and escalators they own in place of state licensing.

On Sept. 22, 2011, Virginia Gov. Bob McDonnell established the Governor’s Task Force for Local Government Mandate Review to identify mandates that are overly burdensome or unnecessary and recommend changes in state laws. The task force issued its report in January 2012 and the general assembly enacted 20 recommendations into law.
One third of the eliminated mandates related to education, including abolition of the mandate that schools must offer online standards of learning in middle schools. This program cost Fairfax County $4 million to establish and had annual operating costs of $4 million. Other repealed mandates include the requirement for state Department of Transportation approval of the location of locally installed red light cameras, and the giving of first priority for vending contracts to the state Department of the Blind and Visually Impaired.

The Fiscal Crisis
Numerous local governments experienced financial problems for many decades, problems which were exacerbated by the national economic recession that commenced in late 2007. The most acute problems are in California.

Jefferson County, Ala., in July 2011 was preparing to seek federal bankruptcy protection when Gov. Robert Bentley proposed a rescue plan similar to the one employed to prevent the bankruptcy of New York City in 1975 that involved the creation of a public authority to issue bonds guaranteed by the state. Nevertheless, the county commission on Nov. 3, 2011, by a vote of 4 to 1, declared bankruptcy on a debt of approximately $4 billion.

The New York State Legislature in 2011 enacted an annual real property tax cap of 2 percent or the rate of inflation applicable to all counties, cities, towns, and villages outside New York City and to fiscally independent school districts and other fiscally independent special districts—fire, library, sewer and water—effective Jan. 1, 2012. The school district cap may be exceeded if 60 percent of voters approve and the cap on the other units may be exceeded if 60 percent of the governing body approve. State financial oversight boards continue to operate in Erie County and Nassau County; the latter county is one of the wealthiest counties in the nation.

The 2012 California State Legislature enacted a law requiring cities to employ a third-party mediator to negotiate with creditors and municipal unions prior to filing for federal Chapter 9 bankruptcy protection. The mediation process, however, may be avoided if a city declares a financial emergency. The City of Vallejo, Calif., exited U.S. Bankruptcy Court protection in 2008, and the California Supreme Court in 2011 upheld the authority of the state legislature to abolish local government redevelopment agencies to reduce a budget gap. A Kern County grand jury in 2011 recommended that the City of Maricopa, population 1,154, be dissolved, and the Town of Isleton, population 840, was considering disincorporation. Mammoth Lakes, population 7,700, sought bankruptcy protection because it had a 2011–12 fiscal year deficit of $2.8 million and was unable to pay a court judgment of $43 million for breaking a contract with a developer.

Stockton, population 290,000, in 2012 became the largest city in the United States to declare bankruptcy that is attributable in part to the collapse of the housing market and municipal mismanagement. Services have been reduced significantly since 2009, with a reduction of 25 percent in police officers, 30 percent in firefighters, and 40 percent of other municipal employees. Creditors initiated action in the U.S. Bankruptcy Court to force the city to reduce its contributions to city employees pension plans on the ground pensions should be treated in the same manner as bond interest and bond principal payments.

San Bernardino, which has a 15 percent unemployment rate and a budget deficit of $45 million, in 2012 sought bankruptcy protection. The mayor and council were not aware of the city’s financial problems because budget officers had reported the city’s finances were sound for 16 years when, in fact, there were deficits in 13 of those years. The City of Vallejo in 2011 emerged from bankruptcy protection after three years, and the City of Atwater in 2012 declared a fiscal emergency.

The Illinois General Assembly in 2010 enacted a statute prohibiting municipalities, with or without home rule powers, to ban political campaign signs on residential properties, but the municipalities may impose reasonable size limits.

Massachusetts in 2010 created a state-appointed fiscal oversight board for the City of Lawrence. The State Board of Education in 2011 assumed control of the public school system in Lawrence, where less than 50 percent of the students graduate from high school in four years. Fall River continues to be under a state financial control board.

The Michigan Legislature enacted a 2011 law strengthening the authority of emergency managers of local governments by providing additional fiduciary authority of municipal pension funds without public participation. A state emergency manager was appointed in 2011 to be in charge of the finances of the City of Benton Harbor, whose records reveal commingled funds, inadequate accounting and spending that was unchecked. A second emergency manager was appointed for the City of Flint because the city failed to follow
deficit reduction plans and relied on gimmicks to balance its budget. The City of Detroit was faced in 2012 with the prospective appointment of a state fiscal manager at a time when the city’s schools were under the control of a state monitor. The city council accepted a state proposal for the establishment of an advisory financial oversight board with members appointed by the city and the state.

New Hampshire’s then-Gov. John Lynch in 2010 vetoed a bill that would have removed the authority of cities and towns to license handgun sales. The General Court (state legislature) in 2011 overrode Lynch’s veto of a bill that would prohibit a city or town planning board to require developers to install sprinkler systems in one- or two-family houses.

The Roosevelt School District in Nassau County, N.Y., was placed under state control in 2002 but regained citizen control in 2010. The New York State Nassau Interim Financial Control Board, an oversight board, unanimously voted in 2011 to become a control board with jurisdiction over the finances of Nassau County, the wealthiest county in the state. The action was validated by a decision of Justice Arthur M. Diamond of the state Supreme Court (a general trial court) in 2011. There also is an active state financial control board for Erie County.

Twenty-seven Pennsylvania municipalities had been under state financial supervision, but six exited from bankruptcy as of 2012. The City of Harrisburg, the state capital, filed for bankruptcy protection in 2011 with debts exceeding $400 million, but U.S. Bankruptcy Court Judge Mary D. France dismissed the filing. Gov. Tom Corbett declared a fiscal emergency in the city and appointed the state’s first municipal receiver. In 2012, Judge Bonnie Leadbetter of the Commonwealth Court ordered the city council to double for one year the city’s earned income tax. The City of Scranton was verging on bankruptcy in 2012 when the commonwealth granted the city a $2 million interest-free loan to pay operating expenses.

The City of Central Falls, R.I., filed for, and was granted, bankruptcy protection in 2010. The state general assembly in the same year enacted a law placing the finances of fiscally distressed cities and towns under state review and the possibility of control by the state department of revenue. The state supreme court upheld the law in 2011. The state placed a retired superior court judge in control of the city’s finances; the judge appointed a three-member advisory council to replace the elected city council. The root cause of the city’s financial problems is attributable to generous benefits for police and firefighters with inadequate funds to pay the accrued retirement benefits. In 2012, the state receiver appointed nine residents of the city to serve on a charter review commission. The city transferred control of its schools to the state in 1991 but continues to maintain the buildings.

Judge Frank J. Bailey of the U.S. Bankruptcy Court in 2012 signed a debt-adjustment plan for Central Falls that allowed it to emerge from Chapter 9 bankruptcy. He referred to the record short time that the city was in bankruptcy and commented, “this is an example—for not only Rhode Island, but maybe the nation—on how to run a Chapter 9.”

The 2010 Rhode Island law was employed in 2012 to appoint a fiscal overseer for the City of East Providence, which had borrowed more than $441 million from its police and firefighters’ pension fund and failed to make payments for services provided by a local hospital. In 2012, Gov. Lincoln Chafee appointed a commission to oversee the finances of the City of Woonsocket. The capital city, Providence, was faced with a financial crisis in 2012 that was averted temporarily by an agreement with municipal workers to a 10-year suspension of cost-of-living increases for most pensions, and the transfer of the city’s health care program to Medicare. The city also reached agreements with property tax-exempt institutions to increase their voluntary contributions to the city.

The Tennessee state comptroller in 2009 investigated the finances of the small town of Lewisburg, which had entered into a risky municipal bond contract with the bond interest quadrupling, and decided it was essential to increase state oversight of local government finances. He required each city and county to have a chief financial officer and an accountant, and recommended that each local government establish an audit committee to monitor issued bonds.

Vermont is a Dillon’s Rule state that tightly controls its counties, cities, towns and villages. A charter municipality desiring to amend its charter must obtain the approval of the Vermont General Assembly and the governor. The assembly in 2011 approved eight charter amendments, but failed to act on H. 31, which would authorize municipalities to amend their respective charter, to adopt a new charter and to repeal charters unless the attorney general, six senators or 30 house representatives petitioned for legislative approval.
The 2010 Wisconsin Legislature enacted a statute authorizing the state superintendent of schools to intervene in failing school districts by directing the school board in a district identified as needing improvement for four consecutive years to modify the curricula, extend the school day and implement academic interventions for poorly performing students. All schools ranked in the bottom 5 percent in terms of performance are Milwaukee public schools.

The Wisconsin State Journal in 2012 used the state’s open meetings law to obtain 7,656 email messages exchanged during meetings of the Madison City Council in the period from April 2010 to Dec. 31, 2011. A state law prohibits the use of email and instant messaging to establish a quorum of members at a meeting of a local government council. The state attorney general and the city attorney discourage the use of electronic communications during council meetings.

**Court Decisions**

The United States Court of Appeals for the Tenth Circuit in *City of Herriman v. Bell* (590 Fed. Rep. 1176) in 2010 rejected the complaint of voters who were excluded from voting on a referendum question to reduce the size of the existing school district because they lived outside the boundaries of the proposed new district. The complainants brought a U.S. 14th Amendment equal protection of the law challenge to the Utah state statute authorizing the referendum. The court held that the referendum promoted local control of public school districts by limiting voting to those who would reside in the new district.

The Cheshire County, N.H., Superior Court in 2010 upheld the decision of the City of Keene to not send copies of an email attachment to a requestor by explaining a local government has satisfied its duties under the state Right to Know Law if the requested records are available for inspection and copying. The state supreme court in the same year held that local property tax limits were invalid because they conflict with state law.

The Ohio Supreme Court in 2010 upheld a state law forbidding local governments to enforce gun ordinances that are more restrictive than state law. The Pennsylvania Supreme Court in the same year struck down a Philadelphia city council ban on public comments at regular council meetings because the ban violated the commonwealth’s 1993 Sunshine Act that guarantees residents a reasonable opportunity to comment on matters of concern at a council meeting.

Wake County Superior Court Judge Shannon Joseph on March 27, 2012, agreed with the five cities that filed a lawsuit by invalidating major sections of a newly enacted North Carolina law stipulating involuntary annexations were constitutional only if a majority of the affected landowners agreed. The cities argued the law unconstitutionally granted a group of landowners the authority to establish municipal boundaries.

The New York Supreme Court opined in 2012 that the City of New York violated the home rule provisions of the state constitution by expanding street hail taxi service beyond Manhattan because the extension provision was enacted by the state legislature after the city council refused to enact the provision.

Colorado in 2012 sued the City of Longmont seeking to have declared invalid city gas and oil regulations on the grounds they contradict state law. This is the first time a local government has been sued by the state regarding gas and oil regulations.

**About the Author**

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1. Introduction to the Shan State Local Governance Mapping

1.1 Shan State - some striking features
1.2 Shan State - Administrative division
1.3 Focus, Objectives and structure of the report.

2. Overview of Governance structures and mechanisms at State Level

2.1 Introduction
2.2 Shan State - Socio-economic and historical context
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2.4 Voting in Shan State for the national parliaments

2.5 Main governance issues Shan State.

5. Conclusions

5.1 Quality of Service Delivery
5.2 Governance attributes in relation to Service Delivery
5.3 Areas for further discussion and attention.

6. Annexes

Annex 1: Governance Mapping - Objectives and Methodology
Annex 2: Township maps - 8 selected townships
Annex 3: Schedule 3 of the Constitution.

TRENDS IN CENTRE-STATE RELATIONS
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Trends in centre-state relations. Dolly Arora. Indian institute of public administration new delhi 2014
Trends in centre-state relations. Dolly Arora. This paper seeks to understand the trends in Centre-State relations in post-Independence India in their varied manifestations over time, across space, and along the specific context of issues. Also the trend of modern international relations is globalization, which is contrary to the Westphalian system, built on the idea of relatively isolated and self-sufficient States and the principle of "balance of power" between them. It is worth noting that globalization has been unequal, as the modern world is quite asymmetric, so globalization is a controversial phenomenon in contemporary international relations. It is necessary to mention that the collapse of the Soviet Union is a powerful surge of globalization, at least in the economic sphere, since then actively began to act transnational. How to read the trend relations. The bigger a circle the more influential the trend (i.e. size of circle indicates the number of other trends influenced by the trend). Local government and cities (i.e. governance on a local level) will become more "demanded" as people can see the consequences of their political actions instantly. A possible increase in the provision of services by private and non-state actors (e.g. start-up involvement in e-health and e-learning) in the field of education and health potentially increases access to medical services.

27. Increases in absolute population numbers are a challenge to state systems and service provision, thus potentially increasing state fragility in the long term.