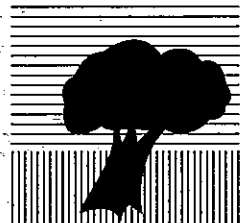


**LEGISLATIVE**

**ACTION**

**PROGRAM**

**2009**



**DuPAGE  
MAYORS AND MANAGERS  
CONFERENCE**

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## LEGISLATIVE PRINCIPLES

The DuPage Mayors and Managers Conference has always advocated on behalf of municipalities. It is a central purpose of the Conference and an important service provided by the organization.

These Principles represent our core values. They reflect the important elements that are necessary to permit municipalities to serve residents effectively and to protect the health, safety and welfare of the community. They are the basis for the priorities and policies adopted by the Conference and its members. They explain how and why municipalities take positions on legislative issues.

### PROTECT MUNICIPAL REVENUES

Local governments are challenged to fund essential services with existing resources. Local revenue sources are limited and restricted by the state. Many revenues are dependent on state authorization, collection and distribution. Municipalities are often threatened with revenue diversions (both permanent and temporary) and state fee increases (beyond the value of the service provided). In recent times, municipalities have completely lost revenue sources through action of the state (sales tax on truck sales, photo processing tax). **The state should not balance its budget on the backs of municipalities, and should not disrupt local budgets by removing or reducing local revenues.**

### REJECT UNFUNDED STATE MANDATES

The state should avoid policies that impose disproportionate responsibilities on local governments or increased financial liability without recognizing and financing the impact of those policies. Too often, legislation requires communities to divert local expenditures from municipal responsibilities and use them to fund state-imposed programs. This is not about the need or efficacy of the program, but rather, about the decision of the state to abdicate responsibility for funding the state's program. **State policies should not impose new obligations on local governments or increase financial liability without providing adequate funds to reimburse municipalities for these new mandates.**

### RESPECT HOME RULE AUTHORITY

There are nearly 200 home rule municipalities in Illinois. Home rule municipalities have self-governance authority to serve these communities and to customize laws to meet the specific needs of citizens. Locally elected officials in those home rule communities are able to determine what is best for their communities and the state should not limit home rule authority. The distinction between home rule and non-home rule communities should be removed to recognize the ability of all municipalities to govern themselves, regardless of population. **The state should not restrict or over-ride home rule authority or the authority of residents to govern their communities.**

## LEGISLATIVE PRINCIPLES

### PRESERVE THE RIGHT OF MUNICIPALITIES TO MANAGE EMPLOYEES AND DETERMINE WAGES AND BENEFITS

In most municipal operating budgets, nearly three-fourths of expenditures are for personnel. Certainly good wages and benefits are important, but must be balanced with other municipal spending priorities. In recent years, state-mandated pension and benefit increases have stretched local government budgets and forced service reductions and tax increases. Pensions, especially, have burdened municipalities as the legislature adds more and more benefits. These increases and pension sweeteners increase the tax burden to residents and must be reigned in. Additionally, mandated rules on how employees are hired, managed, paid and disciplined interfere with the employer/employee relationship. **The state must preserve the authority for all decisions impacting employees to be made by the municipal employer.**

### PRESERVE LOCAL AUTHORITY

Freedom to make decisions at the local level is the best way that municipalities can fully serve their unique constituencies. Activities such as franchising, zoning, issuing permits and licenses, and local code enforcement are fundamental responsibilities of local governments. Further, policies should not undermine or preempt local authority to protect the health, safety and welfare of local residents. Preemptive policies constrain the ability of local elected officials to tailor policies to local needs and demands. **The state must reject laws that erode local decision-making authority.**

# LEGISLATIVE

# PRIORITIES

***Additional reforms to the police and fire pension systems are needed to protect the pension systems and the obligations to police officers and firefighters, while recognizing the growing stress these pensions place on municipalities and their residents.***

In 2008, the legislature adopted proposals from municipalities that would bring improved accountability, ethics, professionalization of fund management, conflict-of-interest restrictions, and public disclosure of pension board activity. These reforms were important and overdue - but more still needs to be done. The Conference is proposing four more reforms to further improve the operations of public safety pension boards without altering in any way the pension benefits that are guaranteed to either pensioners or current employees.

- **Remove Pension Levies from Tax Cap** - Because of previous state-mandated pension increases, combined with current economic conditions, it is imperative to have pension costs removed from the tax cap for non-home rule communities. Pension mandates are funded entirely by local communities, requiring diversions from other municipal services and employee reductions. The economy in the past six months suggests municipal officials should expect unprecedented low returns on investment portfolios. The ability of local governments to keep public safety pensions adequately funded will be greatly eroded without a change to the pension levy restrictions.
- **Municipal Right-of-Intervention in All Pension Board Matters** - Municipalities used to have the right to appear before police and fire pension boards to provide evidence that might contradict a disability claim, or to aid in the determination regarding whether a pension benefit should be awarded. That right was taken away by the courts, and it needs to be restored by the General Assembly.
- **Permissive Authority for Police and Fire Pension Boards to Invest Funds in IMRF** - Downstate and suburban police and fire pension boards are restricted to certain investments based upon the fund's size. This proposal would allow pension boards to voluntarily elect to invest money with IMRF. Because IMRF is professionally managed and subject to far fewer investment restrictions, police and fire pension boards electing to allow IMRF to invest their money may benefit from potentially greater investment returns. Data from the Illinois Department of Financial and Professional Regulation has shown most funds are underperforming. Allowing these funds to invest money with IMRF would enhance their potential to meet assumptions, and may potentially relieve municipalities from overly burdensome contributions.
- **Blended Salary Average for Pension Calculations of Newly-Hired Police and Firefighters** - Police and firefighter pensions are determined based upon a calculation that includes years of service multiplied by creditable service multiplied by final salary. Public safety pensions use the salary earned by the employee on the last day of service as the final salary. Other municipal employees who participate in IMRF are subject to a similar formula. A significant difference, however, is that the final salary determination under IMRF is the highest four consecutive years out of the last ten years of an employee's career. The suggested statutory change would bring the police and fire pension funds into compliance with most other public pension systems established within Illinois (13 of 17). **The change would only be applicable to police officers and firefighters hired after the effective date of the new law.**



## SUPPORT CAPITAL FUNDING FOR INFRASTRUCTURE

***The Conference supports a commitment by the state to enact regular, robust and comprehensive capital funding plans that address the state's infrastructure needs for transportation and capital improvements.***

The continued economic success of the Chicago region depends on our ability to maintain and expand the region's road, transit, and freight rail systems; and to commit funding to build and maintain water-treatment facilities, schools, open space, and other necessary infrastructure.

At a minimum, these capital funding plans:

- Must be substantial in size and scope - piecemeal efforts will cause our infrastructure to crumble and our economy to suffer;
- Must have a revenue source that is reliable and sustainable - burdening the state's balance sheet with more debt without new revenues to pay for it is unacceptable;
- Must have a process to ensure investments are based on clearly articulated state goals - that yield the greatest transportation, economic and environmental benefits; and
- Must provide the matching dollars necessary to leverage the federal funding available for the state.

**The process for selecting priority projects should follow a clearly defined set of criteria that includes:**

- A systematic assessment of future infrastructure needs, including an assessment of the condition of the state's capital assets;
- An open discussion of infrastructure needs that includes a significant and meaningful public input process; and
- A clearly defined and widely supported rationale for making specific choices on project selection.

## STREAMLINED SALES TAX

***The Conference continues to support moving the state towards participation in the Streamlined Sales Tax. However, any legislation must address several issues that need to be resolved before the state can implement the program.***

Since 1999, the Conference has supported the move to a Streamlined Sales Tax agreement that could allow the collection of sales taxes on internet and catalog sales. The general principle supporting this policy is to ensure a level playing field between Main Street businesses and internet or catalog retailers; and to ensure the continued funding of municipal services used by these out-of-state merchants.

While the U.S. Supreme Court has overturned efforts to require out-of-state retailers to collect sales taxes, the Court also said that Congress could act to give states the authority to compel collections of these taxes. To date, Congress has not compelled retailers to take on that task, due largely to concerns of out-of-state retailers that collecting the required taxes is overly burdensome because of the vast array of tax rates, tax bases, and tax policies - hence, the need for the Streamlined Sales Tax Project (SSTP).

Legislation is currently being drafted that provides the final step for Illinois to join the SSTP, and begin receiving internet and catalog sales taxes from companies who have voluntarily agreed to participate. The Conference supports this legislative action, **if, and only if**, the following elements are included:

- Illinois becomes a member of the Streamlined Sales Tax Project as an origin sourcing state (retaining its current approach to sales tax allocation), as is provided in the 2007 amendment to the SSTP by-laws;
- The legislation addresses remaining significant unresolved definitional issues within the context of origin sourcing related to a change from "order received" to "order accepted";
- The legislation includes a comprehensive mitigation plan for municipalities that might experience substantial negative impact due to the origin sourcing definitions; and
- The funding of the mitigation plan would be provided solely by Use Tax collections and would not be subject to appropriation.

## AMEND THE PUBLIC SAFETY EMPLOYEE BENEFITS ACT

*It is necessary to amend the Public Safety Employee Benefits Act (PSEBA) to clarify and reinforce the purpose of this important legislation. Without these changes, employees, taxpayers and local governments will experience excessive and unnecessary costs.*

The intent of this legislative initiative is to seek a sound, negotiated, legislative compromise to avoid fiscal strife and the possible cut back of other services and programs. It is not intended to limit or deny a catastrophically injured public safety employee, who is unable to work in any other gainful employment, to collect their rightful health insurance benefits and other compensation.

PSEBA was enacted in 1997 and provides that municipal public safety employees who have been killed or sustain a "catastrophic injury" in the line-of-duty receive health insurance benefits for life from the municipality. These benefits include the employee's family.

In 2003 the Illinois State Supreme Court ruled that any police or fire employee who receives a line-of-duty disability pension is catastrophically injured and is entitled to the municipally-funded health insurance benefits for life. The definition set forth by the Illinois Supreme Court exposes financially strapped municipalities and taxpayers to huge health care liabilities by requiring municipalities to pay lifetime health insurance benefits for individuals (and their families) who are otherwise able to obtain gainful employment, sometimes at a higher rate of compensation; who have access to other health insurance benefits; and who are collecting a pension of 65% of their salary tax free.

A section of the Act provides that "health insurance benefits payable from any other source shall reduce the benefits payable under this section". This section does not require any notice to the municipality that the employee has subsequent employment or access to health insurance benefits from that subsequent employer nor does it require the employee to accept available health benefits from a subsequent employer.

The legislative initiative would propose to address this section of the Act as follows:

- Seek to require the disabled employee to give notice of new employment to the unit of government.
- Seek to require the disabled employee to give notice if insurance benefits are available at subsequent employment to the unit of government.
- Seek to require the disabled employee to give notice if insurance benefits are available through a spouse's employment.
- When coverage from the subsequent employer or spouse is comparable (or greater) to government required health coverage resulting from the disability event, seek to require the disabled employee to accept this coverage if no unreasonable hardship is faced.
- When coverage from the subsequent employer or spouse is less favorable than government required health coverage resulting from the disability event, seek to require the disabled employee to accept this coverage if the municipality provides separate additional coverage or compensation so that the total benefits received by the employee are comparable (or greater) to government required health coverage resulting from the disability event, if no unreasonable hardship is faced.

## FUNDING FOR MITIGATION OF INCREASED RAILROAD TRAFFIC

*Increased rail traffic contributes to traffic congestion and delays, public safety issues with the delay of emergency vehicles for rail crossings, and increased noise pollution. Funding is needed to mitigate the problems caused by the increased rail traffic.*

Railroads are very reluctant to make improvements that do not directly support their needs. The few improvements that are made by railroads are closely tied to significant safety issues. Issues such as congestion and noise pollution no longer are sufficient to implement expensive grade crossings.

The state provides \$27 million annually for the Grade Crossing Protection Fund for projects statewide. The funds can be used for warning device upgrades, grade separations, interconnects (train signals and traffic signals), road approaches, and crossing closures. The funds are prioritized, in order, for high collision crossings, rail corridors for passenger trains, grade separations, and interconnects. No more than \$12 million is awarded to any single project. (Note that average grade separations can cost \$35 to \$45 million).

For the first time this year, Congress appropriated funds that were authorized in SAFETEA-LU in 2006. The FRA received \$20 million for railroad improvements (including grade separations). However, only \$15 million is available for competitive grants. The remainder went to earmarked projects.

Nonetheless, the congestion of annually increasing freight and passenger rail contributes greatly to automobile traffic congestion and delays. Communities that are bisected by rail lines must constantly address the availability of emergency response to assure residents are properly served. More money is needed, and it is needed now. Grade-crossing separations are the best way to address these issues of congestion, public safety and noise. Likewise, grade separations are significant benefits to the railroads, because they erase safety issues and conflicts between trains and other vehicles. The state, the FRA, and the railroads must all step up and provide adequate funding to construct more grade separations in DuPage County.

**LEGISLATIVE**

**POSITION**

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## STATE AND LOCAL FINANCE

### **SUPPORT LOCAL FUNDING ALTERNATIVES**

Support alternative revenue sources, which lessen reliance on the property tax. As one example, expand the Business and Occupation tax to allow municipalities to tax all businesses and occupations. Also, allow municipalities with no property tax base to levy an initial property tax without referendum.

### **TAX CAP RELIEF**

Restore non-referendum debt authority to municipalities which are covered by the property tax cap.

### **UTILITY TAX FOR ADMINISTRATIVE FACILITIES**

Require utilities to pay state and local utility taxes on power used in administrative offices and facilities.

### **HOTEL MOTEL TAX REVENUE EXPENDITURE**

Amend the Hotel Motel Tax to expand the use of funds by non-home rule municipalities.

### **REGIONAL EQUITY**

Assure that there is a reasonably close relationship between the amount of tax dollars raised within a municipality or county by state and regional agencies, compared to the amount of dollars or services returned to those municipalities and counties by those state and regional agencies.

### **MUNICIPAL ADMINISTRATION OF MOTOR FUEL TAX FUNDS**

Currently, Motor Fuel Tax (MFT) funds require significant oversight by the Illinois Department of Transportation. While this is appropriate for major projects, it is simply overkill for small projects. Municipalities have the expertise to handle contracting, finance, and clerical functions and could save the state and municipal governments money if routine maintenance and resurfacing projects were not subject to approval and supervision of the Department.

## LOCAL GOVERNMENT AUTHORITY

### **NON-HOME RULE SALES TAX EXPENDITURE**

Broaden allowable uses of referendum-approved sales tax increases to mirror the uses of the state-shared sales tax.

### **REAL ESTATE TRANSFER TAX**

Allow municipalities to enact or increase a real estate transfer tax without a referendum.

### **OPEN MEETINGS ACT - ELECTRONIC MEETING ATTENDANCE**

Amend the Open Meetings Act to exclude the use of email in the definition of "meeting" (except when used as immediate electronic communication) and allow electronic meeting attendance in cases of non-emergencies and out-of-town vacations.

### **OPEN MEETINGS ACT - NEW BUSINESS**

Clarify the Open Meetings Act to explicitly authorize municipal boards to vote on items raised under "New Business".



## LOCAL GOVERNMENT AUTHORITY, CONTINUED

### **TORT REFORM**

Protect the Tort Immunity Act from changes that create undue liability exposure for municipalities. For example, use agreed language that is embraced by all affected parties for any amendments.

### **ADMINISTRATIVE ADJUDICATION**

Allow prosecution of minor offenses through local administrative adjudication for non-home rule municipalities, and increase the limit for adjudication of civil fines up to \$1,000.

### **ELECTION OF TAXING BODIES**

Require all special districts with taxing authority to have Board members that are elected, and not appointed.

### **COUNTY CIGARETTE TAX**

Allow all counties to impose a cigarette tax to fund public health and safety programs.

### **MUNICIPAL CONTROL OF FOREIGN FIRE INSURANCE TAX**

Elected municipal officials, not fire department members, should receive, budget, and spend the revenues from the Foreign Fire Insurance Tax.

### **AUTHORIZATION FOR PART-TIME CODE ENFORCEMENT EMPLOYEES**

State statutes relating to housing codes, zoning ordinances, and nuisances for non-home rule communities require that a full-time municipal employee issue the citation for violations.

### **REGULATION AND LICENSING FOR PROPERTY MAINTENANCE**

Only home rule municipalities are permitted to establish property inspection systems, licensing and regulation of rental property managers, and licensing and regulation of landlords. These regulation and licensing programs promote compliance with building, housing, and zoning regulations; identify responsible parties and provide contact information to enforce violations of codes; and contribute greatly to keeping property values strong.

## PERSONNEL AND COLLECTIVE BARGAINING

### **PREVAILING WAGE ACT**

Repeal or modify the Prevailing Wage Act to give municipalities more flexibility, and permitting limited local budgets to address the needs of local residents.

### **REGULATION OF CHARITABLE SOLICITATIONS ON BEHALF OF POLICE OR FIRE UNIONS**

Develop effective efforts to prevent fraud and misrepresentation by solicitors.

### **"CONFIDENTIAL EMPLOYEES" UNDER ILRA**

Legislation is necessary to include within the definition of "confidential employees" those secretaries and similar support staff working directly for certain management personnel and ensure that such employees are not considered "public employees" entitled to membership within a bargaining unit.

## PUBLIC SAFETY, UTILITIES & ENVIRONMENT

### **ENFORCEMENT OF STATE LAWS UNDER LOCAL CODES**

Protect the authority of communities to enforce state statutes under local authority by enacting the state statute as a part of the municipal code.

### **EAVESDROPPING AND POLICE MOBILE AUDIO/VIDEO RECORDING**

Amend the Eavesdropping Act to allow police to audio record their conversations with suspects.

### **ELECTRICITY UTILITY REPORTING STATISTICS**

Require standardization of electricity utility reporting statistics.

### **INTEROPERABILITY FUNDING**

Encourage the federal government to provide additional funding for the implementation of interoperable radio systems to provide communications between emergency agencies.

### **NET METERING FOR WIND FARMS**

Legislation in 2008 provided that local governments are eligible to own and operate a wind generation turbine farm. However, to be effective, the statute must mandate net aggregate metering to be feasible.

### **OPPOSE UNNECESSARY RESTRICTIONS ON POLICE EMERGENCY RESPONSE**

Legislation has been proposed that creates unacceptable tort liability for police emergency response. In cases of an accident in an emergency response, the burden of proof must remain with the plaintiff and should not be shifted to the emergency responders.

### **TOLLS WAIVED FOR LOCAL GOVERNMENT VEHICLES IN EMERGENCY EVENTS**

Currently, police and fire vehicles are not required to pay tolls on the Illinois State Toll Highway system in emergency events. More and more, public works staff and equipment are required to assist in emergency events, and they should have the same benefit as police and fire vehicles.

### **MUNICIPAL EXEMPTION FROM PROVIDING DEFIBRILLATORS IN PARKS**

Current law requires that indoor and outdoor physical fitness facilities have automatic external defibrillators (AED), and an individual trained in the use of the AED, on site. Public Act 95-0712 exempts park districts from this regulation - but not municipal park departments.

## PLANNING, LAND USE & TRANSPORTATION

### **REGIONAL AIR CAPACITY**

Planning for Regional Air Capacity should seek out the best and most efficient means to meet future demands for air travel while protecting the safety, well-being, and housing of residents, businesses, and travelers. The proposed third regional airport must advance immediately to meet the region's air travel needs.

### **SIGN REGULATION**

Protect municipal authority to regulate signs



## PLANNING, LAND USE & TRANSPORTATION, CONT'D

### LIMIT BILLBOARD REMOVAL COMPENSATION

Support legislation to allow municipalities to continue using amortization as a form of "just compensation" when zoning makes a billboard a nonconforming use. Prior to a 2004 court decision, amortization was allowed. Since then, municipalities have been required to pay for removal of a billboard, regardless of age or condition.

### EXPAND ALLOWABLE ANNEXATION BOUNDARIES

Expand a municipality's rights with respect to involuntary annexations by adding railroad and utility rights-of-way as allowable boundaries.

### LAND DISCONNECTION

Prohibit the disconnection of land from a municipality without the approval of the city council or the village board.

### TIF FOR TRANSIT ORIENTED DEVELOPMENT

Amend the TIF statutes to permit the use of TIF financing to support transit oriented development.

### WESTERN ACCESS

Western Access for O'Hare Airport must be constructed as a meaningful "front entrance" to the facility, and any roadways and other infrastructure must be located within existing airport property. Adjacent municipalities must be involved in planning and development of Western Access and the resulting impact on those communities.

### LOSS OF AFFORDABLE HOUSING

O'Hare expansion as proposed would create a significant negative impact on the availability of affordable housing in DuPage County. This must be recognized as a crucial issue by policymakers at all levels, and it is vital that the City of Chicago replace all affordable housing units in DuPage lost to O'Hare expansion.

### SUPPORT NEGATIVE USE RESTRICTIONS

Allow non-home rule communities to enact negative use restrictions that prevent "big box" stores that relocate outside a community from prohibiting another, similar business from locating at the previous site.

### SPECIAL SERVICE AREAS FOR STORMWATER FACILITIES

Allow the use of special service areas to provide maintenance and operations for drainage facilities that are the responsibility of homeowner associations.

### OPPOSE A STATEWIDE BUILDING CODE

Municipalities should retain the ability to adopt, or not adopt, a building code; and should always have the ability to determine which code to adopt and amend.

### REQUIRE FORECLOSURE NOTIFICATION

Municipalities should receive notification of a foreclosure proceeding by the lending institution on a residential property within the community. With early notification, the municipality may be able to avoid some of the pitfalls that occur from vacant properties and will have up-to-date information on the deed holder.

## CONFERENCE MEMBERSHIP HOME RULE STATUS AND POPULATION

MUNICIPALITY	CITY OR VILLAGE	HOME RULE *	POPULATION **
Addison	Village	Yes	36,946
Aurora	City	Yes	164,681
Bartlett	Village	Yes	41,402
Bloomington	Village	Yes	22,854
Bolingbrook	Village	Yes	62,948
Burr Ridge	Village	No	11,259
Carol Stream	Village	Yes	40,738
Clarendon Hills	Village	No	7,610
Downers Grove	Village	Yes	49,403
Elmhurst	City	Yes	43,298
Glen Ellyn	Village	Yes	26,999
Glendale Heights	Village	Yes	31,765
Hanover Park	Village	Yes	38,278
Hinsdale	Village	No	17,940
Itasca	Village	No	8,302
Lemont	Village	No	16,625
Lisle	Village	No	23,506
Lombard	Village	No	43,894
Naperville	City	Yes	136,380
Oak Brook	Village	No	8,702
Oakbrook Terrace	City	Yes	2,300
Roselle	Village	No	23,115
St. Charles	City	Yes	31,834
Schaumburg	Village	Yes	75,936
Villa Park	Village	No	22,517
Warrenville	City	Yes	13,363
Wayne	Village	No	2,137
West Chicago	City	Yes	25,690
Westmont	Village	Yes	26,211
Wheaton	City	Yes	55,416
Willowbrook	Village	No	8,967
Winfield	Village	No	8,718
Wood Dale	City	No	13,535
Woodridge	Village	Yes	33,253
Total			1,175,343

\* Under the 1970 Illinois Constitution, any municipality of more than 25,000 is a home rule unit. Municipalities of 25,000 or less may elect by referendum to become home rule units. Similarly, home rule communities, regardless of population, may rescind home rule power by referendum. Home rule units enjoy broader powers to license, tax, incur debt, and generally regulate for the public health, safety, and welfare than do non-home rule units. The Constitution provides that the General Assembly may pre-empt home rule powers in many cases if it does so with the approval of an extraordinary majority (3/5 of the members) in each chamber. (Illinois Constitution, Article VII, Section 6)

\*\* Based on figures from the 2000 Federal Census, or special census conducted by municipality.