

Texas Public Policy Foundation

Local Government

Legislator's Guide to the Issues | 2017-18



Local Control



The Issue

Local control is a policy preference favored by many in the Lone Star State, but its misuse and misapplication over the years has enabled the rise of a whole host of bad public policies.

This sentiment was echoed last year by then-Governor-elect Greg Abbott at the Texas Public Policy Foundation's 13th annual Policy Orientation for the Texas Legislature during his keynote address, at which he remarked:

The truth is Texas is being California-ized and you may not even be noticing it. It's being done at the city level with bag bans, fracking bans, [and] tree-cutting bans. We are forming a patchwork quilt of bans and rules and regulations that is eroding the Texas Model.

Now think about it—few things are more important in Texas than private property rights. Yet some cities are telling citizens that you don't own some of the things on your property that you have bought and purchased and owned for a long time. Things like trees. This is a form of collectivism.

Some cities claim that the trees on private property belong to the community, not to the private property owner. Large cities that represent about 75% of the population in this state are doing this to us. Unchecked over-regulation by cities will turn the Texas miracle into the California nightmare faster than you can spell TPPF. (emphasis added)

As rightly suggested by the governor, a slew of onerous rules, restrictions, and regulations have been put in place locally that threaten to turn Texas into something unrecognizable. The glut of restrictive regulations run the gamut from the types of businesses allowed within a city limit to the kind of bags a person can use at the grocery store to the things a person can and cannot do in the privacy of their own vehicle. Indeed, there seems to be no nook or cranny too small to escape the growing regulatory reach of Texas' local governments.

More often than not, the justification given for these intrusions hinges upon "local control," or the state-afforded authority granted to communities to govern certain policy areas. Local governments know best how to solve their problems, or so the thinking goes. But where this rationale frequently goes off the rails is in its emphasis of local control over other, more important governing principles, such as liberty.

Liberty, not local control, is the overriding principle that should inform and direct our public policymakers. For without liberty, local control merely becomes a means toward the end of local tyranny.

It is through the lens of liberty that Texas' elected officials ought to be crafting public policies so as to protect and promote those inalienable rights of life, liberty, and property rights. To the extent that a law or regulation violates these core values, it should be held suspect by the state.

While some will seek to criticize this stance, local control is a preference that should neither be unlimited nor unchecked.

Like all government power, local control must be confined and monitored to avoid abuse and misapplication. Such checks are particularly important given local governments' peculiar vulnerability to persuasive leaders and factions. As Founding Father James Madison explains in the Federalist No. 10:

The influence of factious leaders may kindle a flame within their particular States, but will be unable to spread a general conflagration through the other States. A religious sect may degenerate into a political faction in a part of the Confederacy; but the variety of sects dispersed over the entire face of it must secure the national councils against any danger from that source. A rage for paper money, for an abolition of debts, for an equal division of property, or for any other improper or wicked project, will be less apt

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to pervade the whole body of the Union than a particular member of it; in the same proportion as such a malady is more likely to taint a particular county or district, than an entire State.

Since the nation's founding, our leaders have recognized the vulnerabilities of local governmental structures and the need for proper supervision from state authorities. This view—that state government serves as a check on local government overreach—is not new.

The state's supervisory role operates as a safeguard for the sake of the citizenry, ensuring that there's at least some avenue to protect against local tyranny. Moreover, the state is, in many cases, ultimately responsible for local government actions, especially in matters of public finance. Thus, it has an inherent interest in making sure that local governments operate within the bounds of right and reason.

The Facts

- Texas is being California-nized with a patchwork quilt of bans, rules, and regulations enacted at the local level.
- Liberty, not local control, is the overriding principle that should inform and direct our public policymakers.

Recommendation

Allow liberty, not local control, to be the overriding principle that informs and directs Texas' public policymaking process.

Resources

[*Laredo Merchants Association v. City of Laredo, Texas Amicus Brief*](#) by Robert Henneke, Allegra Hill, and Kathleen Hunker, Texas Public Policy Foundation (March 2016).

