

Reduce Extraterritorial Jurisdiction

Background:

Over the past decade, there has been a trend for cities and towns to pass ordinances to regulate conduct that occurs outside of the town boundaries. This is done under several old statutes that gave extraterritorial authority of up to 10 miles in some instances. One set of statutes allows for the regulation of watercourses up to 10 miles outside of the municipal jurisdiction. Another statute allows the regulation of up to four miles outside the municipal jurisdiction of conduct or use of property that might endanger the public, health, safety or welfare. In all cases, county government has the same authority.

Recently, the extraterritorial use of these ordinances has restricted pumping water from an aquifer, the operation of a mine and the construction of wind farms. It is believed that cities and towns will continue to expand their efforts to regulate activities in the county that are controversial but otherwise legal under state law and county ordinances.

Existing statutes give municipalities the following extraterritorial powers:

- Acquire property via eminent domain.
- Zone the area within two-miles around a municipality in a county with advisory zoning.
- Regulate conduct or use of property that might endanger public health, safety or welfare.
- Impose restrictions upon persons or animals that might cause other persons or animals to be injured or contract disease.
- Capture and destroy animals.
- Change the channel of, dam, dredge, remove an obstruction, straighten and widen a watercourse.
- Regulate taking of water from a watercourse.
- Regulate conduct that might alter the temperature of water or affect the flow of a watercourse.
- Regulate introduction of any substance into a watercourse or onto its banks.
- Purify water in a watercourse.

Important note—This proposal does not impact the provision of services such as water, sewer or utilities. It does not address annexation issues. It only limits the imposition of regulations.

Talking Points:

- This bill is not about any particular fact issue but the decision about who should hold power at the local level.
- Extraterritorial jurisdiction gives power to individuals to regulate those individuals in a county who did not have an opportunity to vote for or against the city or town official.
- The conduct that the towns are proposing to regulate are actions which can already be regulated by the county government or state agencies (such as the regulation of watercourses).
- These ordinances impact the county's ability to create economic development opportunities.
- Given the expanding trend to use this authority, it is only a matter of time before cities and towns begin to regulate agricultural activities.

Key Message/Ask:

- Cities and towns should not be able to regulate outside of their jurisdictional boundaries.

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