

DuPAGE MAYORS AND MANAGERS CONFERENCE

# LEGISLATIVE ACTION PROGRAM

2008





# CONFERENCE OFFICERS AND LEGISLATIVE COMMITTEE

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# TABLE OF CONTENTS

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Introduction	1
Legislative Priorities	
Protect Municipal Revenues	3
Reform Police and Fire Pension Plans	4
Streamlined Sales Tax	5
Education Reform	7
Legislative Position Statements	
State and Local Finance	9
Local Government Authority	10
Personnel and Collective Bargaining	11
Public Safety, Utilities, and Environment	12
Planning, Land Use, and Transportation	13
Conference Membership	15
Conference and Legislative Committee Overview	16

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# INTRODUCTION

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The DuPage Mayors and Managers Conference strives to cultivate competitive, sustainable communities that meet the needs of residents and businesses by upholding and advocating principles of effective local government and by lessening the burdens of government. This document represents municipal positions on state and federal issues affecting local government and the DuPage Mayors and Managers Conference's desire to build and maintain a collaborative partnership between state and local government as we serve our common constituency.

The DuPage Mayors and Managers Conference selects a number of legislative priorities annually on which it focuses its efforts during that year. This year's Legislative Priorities focus on urgent state issues that require resolution.

Certainly, other issues will arise in the coming year which will be of major importance to municipalities and their residents. These will receive due attention by the Conference and other municipal groups. Legislative Position Statements are broad principals, such as the prevention of new or expanded unfunded mandates, which provide a continuing backdrop as new legislation is evaluated.

With the second year of the 95th General Assembly underway, 2008 may see a flurry of activity on all legislative topics, many left over from the 2007 deliberations. The 2008 Legislative Action Program advances the causes that will continue to make DuPage municipalities a great place to live and work.

DuPAGE MAYORS AND MANAGERS CONFERENCE



# LEGISLATIVE PRIORITIES



## PROTECT MUNICIPAL REVENUES

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***Local governments are challenged to fund essential services with existing resources. The current economy and significant number of fee increases and revenue diversions by the state have amplified this situation. The Conference will work to protect local governments from any additional fund diversions and restore previously diverted revenues.***

Municipalities provide many essential services to Illinois citizens. A significant portion of the municipal revenues needed to fund these services are collected and administered by the state. As the state addresses its current financial position, it is critical that municipal funds not be considered as a component to help balance the state budget as they have in the recent past. Specifically, municipalities have had to cut budgets to cover the loss of revenue due to:

- » Public pension funds' compliance fees being at least doubled and in some cases tripled;
- » New National Pollutant Discharge Elimination System (NPDES) permit fees, including capital improvement fees;
- » Municipalities' share of the photo processing tax redirected to the state;
- » Loss of local sales tax on truck sales due to the recent Commercial Distribution Fee;
- » New Garbage Tipping Fees;
- » State mandated pension increases for fire and police personnel; and
- » Significant increases in medical insurance costs since the Illinois Supreme Court's expansion of the definition of "catastrophic injury" in *Krohe v. City of Bloomington*.

Additionally, an increasing number of unfunded state mandates are devastating municipal budgets. Both home rule and non-home rule municipalities share the state's struggle with revenue shortages. Each cost increase or revenue diversion requires a service cut elsewhere in the municipality. The ability of local governments to adequately provide basic services (police, fire, paramedics, snowplowing, etc.) must be protected.



## REFORM POLICE AND FIRE PENSION PLANS

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***Municipalities are constantly forced to accept police and fire pension increases that significantly raise costs to local residents and divert limited resources from other important needs. Yet these pension systems have no effective ethics, oversight or reporting responsibilities. Without affecting members' pension benefits, we believe reform measures are needed to make these pension systems more accountable to their members and to the public.***

Municipalities statewide are joining together to support reforms to the police and fire pension systems that continue to draw an ever-increasing share of local revenues. We are not proposing any change to benefits. We are asking for substantive changes that include ethics reform, greater public awareness, improved information quality, meaningful regulations, verification and greater funding authority. Specifically, we are proposing:

- » Require state-funded fiscal impact assessments in 25–50 selected municipalities before any proposed pension legislation can move beyond the committee stage;
- » Exempt the pension levies for public safety pensions from the tax cap;
- » Restrict the ability of a fiduciary to knowingly cause or advise the fund to engage in an investment transaction when the fiduciary has any direct interest in the income, gains or profits of the investment advisor;
- » Establish minimum standards for investment, actuarial and other professional services utilized by the pension funds;
- » Add additional staff to the Illinois Department of Financial and Professional Regulation to provide improved service to pension funds and municipalities;
- » Implement anti-fraud disability measures to require periodic medical reevaluations of employees receiving disability benefits;
- » Require pension boards to annually review disability awards, to allow municipal right-of-intervention in all pension decisions, and to refer all benefit awards to the municipality for verification;
- » Require pension boards to fund an annual publication in local newspapers making public the financial status and benefit awards of the funds;
- » Direct a state agency to publish a comprehensive and detailed biennial report on the financial health of all of the police and fire pension funds.

In addition, we continue to support the “agreed bill” process for all changes to the police and fire pension systems and collective bargaining. The “agreed bill” process must have participation and representation of all interested parties, including the public that pays for any pension increases.



## STREAMLINED SALES TAX

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*The Conference continues to support moving the state towards participation in the Streamlined Sales Tax. However, there are several issues and changes that must 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 levy 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 collection 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).

Senate Bill 1429, currently under consideration, 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. SB 1429 makes the following significant changes to the current sales tax system:

- » Sourcing rules are changed to destination sourcing, meaning the sales tax is paid to the jurisdiction where the retail purchase is delivered to the customer. Thus, a refrigerator purchased at a store in Oak Brook, but delivered to the purchaser at a home in Westmont, would require the sales tax on the purchase be paid to Westmont;
- » For leased property, the taxes are collected on the lease payments over the time the lease is in effect, instead of the current provision that sales taxes are collected at the time the lease is entered;
- » A single tax rate is necessary in any jurisdiction, so there will be issues when a municipality straddles a county line, or when there is a business district sales tax or similar tax that is not applicable throughout the community; and
- » The sales tax base will increase with the addition of several items that are not now taxed in Illinois (soft drinks, grooming and hygiene products).

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## STREAMLINED SALES TAX, CONTINUED

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However, we believe it is important to complete several more steps before Illinois formally joins the SSTP. These include:

- » Legislative authorization for every municipality to have access to sales tax collection records from the Illinois Department of Revenue (in order to better gauge the impact on the community of the numerous, significant changes that will take place if SB 1429 is approved);
- » A detailed study from the Department of Revenue of the impact on each municipality of both the sourcing rules and the potential increased revenues from the expanded tax base and the collection of internet and catalog sales (since the state has detailed information and the resources to develop the models necessary to estimate the impacts of all of the proposed changes); and
- » A guaranteed mitigation plan that will hold-harmless any municipality that loses revenues from the effects of the sales tax changes and that is not subject to appropriation by the General Assembly.

These three points must be addressed in order for the Conference to support Streamlined Sales Tax legislation.

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NOTE: In December 2007, the Governing Board of the Streamlined Sales Tax Project adopted an amendment that would allow Illinois to maintain origin sourcing under the following conditions:

- » Five states that are not now full members join the Streamlined Sales Tax Project as origin sourcing members;
- » The deadline for the five states to join is January 1, 2010; and
- » Origin sourcing would only apply to intrastate sales.

Further, in order to implement this provision, the Streamlined Sales Tax Project must resolve how to treat intrastate origin sourcing when services and tangible personal property are bundled, and how to address concerns of the business community on vendor compensation and the diminished “streamlining” of the sales tax.

In short, potentially Illinois would not have to change its sourcing rules, but a lot of things have to happen before it would actually be effective. Therefore, we maintain our position on this (as described above), but will work with the state to pursue implementation of the new amendment.



# EDUCATION REFORM

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*It is necessary to reform the public school funding system to fulfill the state's responsibility to provide an acceptable basic education and long term funding equity with lessened reliance on property tax dollars as the major revenue source. At the same time, legislation must create accountability for both the revenue spent and the education provided in order to grow public support for the funding reforms.*

DMMC has participated in the Metropolitan Mayors Caucus' (MMC) Education Reform Committee for the past several years. Since its inception, the MMC Education Reform Committee has monitored and evaluated legislation affecting education funding. Noting that past legislation has not addressed accountability, the Caucus developed the belief that taxpayers should not be asked to provide additional resources to schools without receiving assurances that these new monies will be well spent, in ways likely to improve education quality and fiscal transparency.

In November 2003, the Caucus developed and DMMC approved a Position Statement on Education Reform. By early 2007, MMC had developed recommendations for improving schools' financial accountability (Strengthening the Financial Management Accountability of Illinois School Districts). These recommendations include:

## Principles

- » The state must provide at least 51% of the cost of funding education.
- » Education funding must benefit the districts with the most need in Illinois.

## Revenue

- » New revenue of \$7 billion by increasing individual income taxes from 3% to 5% and corporate income taxes from 4.8% to 8%.
- » Close tax loopholes for corporations.

## Expenses

- » Provide \$3 billion in property tax relief.
- » Fully fund the Education Funding Advisory Board (\$2.1 billion).
- » Increase special education personnel costs to \$19,000/teacher.
- » Fund state mandates and provide funds to rapidly expanding districts.
- » Fund implementation of MMC fiscal accountability measures.
- » Keep \$95 million in a "rainy day fund".

## Local Government Distribution Fund

- » Address the "windfall" to municipal revenues as a result of the increased income tax.
- » Majority would go to eliminate the school pension debt.

## Funding Stability

- » Revenues and expenditures above must be subject to continuing appropriation.
- » Redirecting this money would require three-fifths vote of Legislature.

DuPAGE MAYORS AND MANAGERS CONFERENCE



# LEGISLATIVE POSITION STATEMENTS



# STATE AND LOCAL FINANCE

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## **UNFUNDED STATE MANDATES**

Amend the Illinois Constitution to effectively limit unfunded mandates.

## **DIVERSION OF FINE REVENUE**

Limit court and other fees that drain municipal fine revenues.

## **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 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 state funding sources and grant programs provide local governments with a reasonably close relationship to the amount of tax dollars generated by these local governments.

## **CAPITAL FUNDING FOR INFRASTRUCTURE**

Illinois must commit to regular, robust and comprehensive capital funding plans that address the state's infrastructure needs for transportation and capital improvements. Currently, the state is not investing to keep pace with growth in population, commerce and development.



## **RESOLUTION OF HOME RULE/NON-HOME RULE DISTINCTION**

Recognize the ability of all municipalities to govern themselves, regardless of population. As one example, give non-home rule municipalities the ability to expend any validly collected revenue for any valid public purpose.

## **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”.

## **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.



# PERSONNEL AND COLLECTIVE BARGAINING

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## **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.

## **LOCAL COLLECTIVE BARGAINING**

Allow local collective bargaining to resolve local labor issues.

## **LOCAL AUTONOMY OVER FIRE AND POLICE**

Allow non-home rule municipalities to:

- (1) demote police and fire employees for cause; and
- (2) increase the maximum suspension from 30 to 60 days.

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

Develop effective efforts to prevent fraud and misrepresentation by solicitors.

## **CATASTROPHIC INJURY**

Define the term “catastrophic injury” (under the Public Safety Employee Benefits Act) in the same fashion it is used in the federal legislation upon which it is based (to mean a grievous or serious injury or impairment of a nature that is sufficient to permanently preclude the injured employee from performing any gainful work).



# PUBLIC SAFETY, UTILITIES, AND ENVIRONMENT

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## **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.

## **VoIP**

The introduction of Voice-over Internet Protocol (VoIP) over the past several years, along with the FCC's classification of VoIP as "interstate" in nature, threatens municipalities' and 9-1-1 systems' abilities to collect telecommunications and utility taxes. This revenue is essential to fund the emergency response and dispatch systems which citizens rely on in the most dire situations.

## **AVAILABILITY OF WATER SUPPLY CONSUMER CONFIDENCE REPORT**

Eliminate the requirements to annually mail to customers a Water Supply Consumer Confidence Report.

## **INTEROPERABILITY FUNDING**

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



# PLANNING, LAND USE AND TRANSPORTATION

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## **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.

## **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.

## **ENFORCEMENT/INSPECTION/LICENSING OF PROPERTY**

Authorize non-home rule municipalities to establish a uniform property inspection system and license rental property managers, to enforce compliance with building, housing, and zoning regulations.

## **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.

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# PLANNING, LAND USE AND TRANSPORTATION

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## **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.



## 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	21,675
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	No	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.



## CONFERENCE AND LEGISLATIVE COMMITTEE OVERVIEW

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Founded June 19, 1962, the DuPage Mayors and Managers Conference is a council of 34 municipal governments in DuPage County, Illinois. Each member municipality is represented by its mayor and manager as voting delegates. The Conference is a not-for-profit organization supported by membership dues and grants.

The purpose of the Conference is to foster intergovernmental cooperation among municipalities and between municipalities and other levels of government; to provide research and technical assistance in the development of solutions to local problems presented by member municipalities; to articulate positions and, when appropriate, implement solutions to regional, state and countywide problems; to serve as an information clearinghouse for member municipalities; to provide training and educational programs designed to foster leadership development and an understanding of municipal issues; to uphold and advocate principles of effective local government and to otherwise lessen the burdens of government.

The Legislative Committee reviews and recommends policies on state and federal legislation and directs the Conference's legislative efforts. Each year the Legislative Committee compiles a Legislative Action Program (LAP), pinpointing a selection of upcoming or ongoing legislative priorities to be the focus of our efforts for the year. The LAP is formally presented to the membership and to local legislators at a January event, and the document is distributed to members, legislators, state agencies, regional agencies, and municipal partners.

Conference members participate in the legislative process of the Illinois General Assembly through the annual Springfield Drive Down and meetings with legislators. The Conference arranges meetings at the capitol with constitutional officers and caucus leaders. Legislators are also invited to attend a variety of Conference events during the two-day trip.

In addition, the Conference annually recognizes a public official who is considered most helpful on municipal issues and to members of the Conference over the past year.



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