

CLASS DISMISSED?



The Case for Classification Reform for Kentucky's Cities

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It's becoming a ritual every legislative session for a handful of cities to make the pilgrimage to Frankfort to plead their cases before legislators and committees that their cities need to be reclassified. Mayors and city clerks scurry to get resolutions adopted and sometimes use creative math to calculate population just to show that their cities meet arbitrary population counts contained in a repealed provision of Kentucky's 1891 Constitution. If you ask the city officials who have engaged in the exercise, they will readily tell you that all of it is done in the name of opportunity. Most cities do it because they feel that a modification in class

will allow additional flexibility for city leaders to enhance the quality of life for their residents.

Although the voters of Kentucky repealed the constitutional provision that required a population-based classification system in 1994, the state statute referencing the old language remains on the books. Thus, cities are still obliged to meet population criteria in order to move from one class to another. The 1994 amendment gives the General Assembly the ability to create a city classification system based on any number of factors, including tax base, form of government, geography or any other reasonable basis.

However, the state legislature has never acted to change the system.

Population-based classification made sense when it was adopted because Kentucky cities did not have home rule, and the legislature was required to enact extensive enabling legislation for the operation of city governments. The system was developed to allow the General Assembly to treat similar cities alike and to avoid violating other constitutional constraints that prohibit local legislation. As a result of this history, Kentucky's statutes contain more than 400 classification-related laws that affect public safety, alcoholic

| Selected Laws Affecting Cities by Class | 1st | 2nd | 3rd | 4th | 5th | 6th |
|---|-----|--------------|--------------|--------------|--------------|--------------|
| Occupational license fee as a percent (earnings/profit) | x | x | x | x | x | |
| Restaurant tax | | | | x | x | |
| Mandatory police and fire departments | | x | x | | | |
| Mandatory public safety collective bargaining | x | ¹ | | | | |
| Firefighter work schedule | x | x | | | | |
| Police work schedule | | x | x | | | |
| Police department countywide jurisdiction | x | x | x | x | x | |
| Police force merit system | x | | | | | |
| Police and firefighter disciplinary procedure | | x | x | | | |
| Civil service | x | ² | ² | ² | ² | |
| Local option elections for alcohol sales | x | x | x | x | | |
| Liquor-by-the-drink ordinance | | | | x | | |
| Planning and zoning preemption | | | | | ³ | ³ |
| Nuisance code enforcement in KRS 82.700-82.725 | x | x | x | x | | |
| Community improvement district | x | x | x | x | | |
| Local development authority | x | x | | | | |

Notes:

1. Lexington has mandatory collective bargaining with the public safety officers as an urban county government.
2. It is not mandatory.
3. Only fifth- and sixth-class cities located in a consolidated local government are preempted.

beverage control, revenue options and other powers. These legal remnants have the effect of creating both incentives and disincentives to change classification, as evidenced by the fact that about one-third of Kentucky cities are in classes that do not reflect current population.

It's time to end the ongoing population numbers game and allow cities the flexibility to govern as needed in individual communities. Cities have been exercising home-rule authority now for more than 30 years, which has effectively eliminated the need for a complex classification scheme and has made the class designations seem like nothing more than an illogical caste system of Kentucky cities.


An initial reaction may be to chide the General Assembly for the failure to

act, but perhaps some portion of the blame lies with cities. To date, municipal leaders have not come forward with a comprehensive proposal for changing the classification system. Several legislators have indicated that they are looking to cities for direction and input to develop a new system that would best suit the varied needs of Kentucky's 418 cities.

If, in fact, the General Assembly has been reluctant to proceed without guidance from cities, the wait is over. During the past 18 months, a city classification task force worked at building a concept to provide a solution. The task force was composed of city officials from all regions of the state, representing each of the six classes and the various forms of city government. This diverse group of city leaders studied all of the legal issues related to classification, examined

the methods used in other states and considered various proposals for reform. In tackling what could have been a politically divisive issue for cities, the task force was guided by the principle that a final proposal should not harm any Kentucky city.

This January, the Kentucky League of Cities Board of Directors voted to endorse and pursue the recommendation of the task force to restructure the classification system by eliminating population as a criteria and creating two simple classes of cities based on the form of government: merged/consolidated governments and cities. The recommendations also call for the removal of restrictions and mandates based on classification. It's an amazingly simple plan that will tremendously assist local leaders in their quests to help their cities reach their full potential.

Most acknowledge that changing a system so deeply rooted in Kentucky's history will be a challenging pursuit. Nevertheless, cities have answered the call to provide direction and are prepared to advocate for legislation that will stop the nonsensical rituals and allow local leaders to get back to the serious business of creating the types of communities that will help our entire state prosper. Let's hope our state leaders are really ready. 

Current Classification System

| Classification | Population Requirements |
|----------------|-------------------------|
| First | 100,000 or more |
| Second | 20,000 to 99,999 |
| Third | 8,000 to 19,999 |
| Fourth | 3,000 to 7,999 |
| Fifth | 1,000 to 2,999 |
| Sixth | Less than 1,000 |



Reminder: New CERS Rates Went into Effect July 1, 2011

Please note that the new employer contribution rates for cities, counties and other members of the County Employees Retirement System (CERS) went into effect July 1, 2011. Local governments should now contribute 18.96 percent of non-hazardous-duty employees' salaries to the retirement system and 35.76 percent for hazardous-duty employees. These rates have doubled since 2004. The Kentucky League of Cities estimates that the new CERS rates increase city costs by approximately \$17 million this fiscal year.

Each year, the Kentucky Retirement System Board of Trustees determines how much local governments have to pay into the system. Cities, counties and other CERS members have no choice but to pay the rate set by the KRS Board of Trustees. The employer contributions are in addition to salary costs and only pay for future retirement health care costs and pensions; it does not cover any current benefits, such as health or dental insurance.

Retirement reform remains a top legislative priority for the Kentucky League of Cities. If you have any questions, please contact J.D. Chaney at 800.876.4552. 