

THE STATE OF LOCAL GOVERNMENT MANAGEMENT: AN ANALYSIS OF LEGAL FRAMEWORKS FOR THE CITY ADMINISTRATOR STRUCTURE IN THE UNITED STATES

CHRISTIAN L. JANOUSEK[†]
MONTANA B. CROW^{††}

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I. INTRODUCTION

Plagued by the rampant inefficiencies and corruption that symbolized the Gilded Age of urban political machines and bosses, American cities of the early 20th Century severely lacked formal structure, legal guidance, and most importantly, professional standardization. In a coordinated response, which would later be termed the Progressive Era, numerous practitioner associations, scholars, and advocates led a widespread campaign for reform in local government management, characterized by the introduction and proliferation of enhanced

[†] Assistant Professor, Department of Political Science and International Relations, Creighton University, Omaha, Nebraska; J.D., Creighton University School of Law; Ph.D., University of Nebraska at Omaha.

^{††} Senior Attorney, Berry Law Firm, Omaha, Nebraska; J.D., Creighton University School of Law.

designs for professionalism in city administration. While these initiatives unquestionably enriched the operational stability of cities, the contemporary legal paradigms of reform and adaptation observed among the American states continue to complicate the quest for professionalized uniformity.

In the vast landscape of local government, American municipalities pursue varying legal designations that distinguish particularized structures of city management. Although several iterations exist, the two most common forms are mayor-council and council-manager.¹ These two styles of government procedure indicate the contrast of political and professional systems respectively, demarcated by the legal authority of administrative actions being delegated to the mayor or the city manager. However, many mayor-council cities infuse professional attributes with the addition of a chief administrative officer (CAO) in the position of city administrator.²

The legal foundations of professional local government management began with the introduction of the city manager plan.³ The rapid growth of urban areas following the Industrial Revolution prompted a need for the improved management of cities.⁴ Starting in the early 1900s, the city manager plan gained momentum in the United States, receiving official endorsement by the National Municipal League as the preferred form of professional government organization.⁵ Under the plan, administrative duties consolidate in the city manager, an appointed professional officer that serves at the will of the city council.⁶ While the mayor and council maintain legislative tasks, the city manager assumes responsibility for executive administration.

The city manager plan, or by its modern connotation as council-manager, exhibits considerable popularity as the predominant structural form of government in American cities.⁷ The second most prevalent

1. Nat'l League of Cities, *Cities 101 – Forms of Local Government*, RESOURCE LIBRARY (Dec. 13, 2016), <https://www.nlc.org/resource/cities-101-forms-of-local-government/>.

2. H. GEORGE FREDERICKSON, GARY A. JOHNSON, & CURTIS H. WOOD, *THE ADAPTED CITY: INSTITUTIONAL DYNAMICS AND STRUCTURAL CHANGE* 56–60 (2004).

3. See Don K. Price, *The Promotion of the City Manager Plan*, 5 PUB. OP. Q. 563, 573–75 (1941); William A. Sommers, *Council-Manager Government: A Review*, 11 W. POL. Q. 137, 139–42 (1958).

4. See ROBERT E. ENGLAND, JOHN P. PELISSERO, & DAVID R. MORGAN, *MANAGING URBAN AMERICA* 68–70 (8th ed. 2017) (noting the Reform Movement addressed many urban issues of this era, including widespread corruption that was associated with municipal development and expansion).

5. See NAT'L MUN. LEAGUE, *A MODEL CITY CHARTER AND MUNICIPAL HOME RULE* 29 (Mar. 1916).

6. Richard J. Stillman, II, *The City Manager: Professional Helping Hand, or Political Hired Hand?*, 37 PUB. ADMIN. REV. 659, at 659 (1977).

7. *Int'l City/Cty. Mgmt. Ass'n, 2018 Municipal Form of Government Survey*, 1–3 (July 2019),

arrangement, the mayor-council form,⁸ typifies a traditional political model in which the elected mayor holds executive and administrative posts, with the city council preserving a legislative role. However, most mayor-council cities include a professional city administrator,⁹ situated as a CAO under the executive mayor. The legal divergence of these forms refers to the distinction of authorization between the city manager and city administrator positions.

Normally designated through approval by voter referendum, the council-manager plan is a stipulated form of local government with precise legal instructions outlined in state statutes for codification by the city charter.¹⁰ These laws enable the structural formation and operation for all localities adopting the council-manager form. Although such statutes vary by state, the legal constructs of the council-manager plan are commonly recognized and well established.¹¹ Conversely, city ordinance typically creates the city administrator position, arising from the mayor-council structure authorized in the city charter, with duties and responsibilities defined by the city council.¹² State statutes may provide guidelines on the scope and utilization of such ordinances but these laws are often less defined or entirely nonexistent, which deleteriously affects the potential for standardization in formation and implementation.

While the expanded diffusion of organizational alterations for the CAO position in mayor-council government has been well documented,¹³ the legal frameworks that provide for the city administrator form have been less adaptive. Several factors may contribute to this gap. Foremost, the city administrator compilation is less legally distinct compared with the statutorily certified charters of the pure mayor-council and council-manager, with a wide variation of possible configurations. In general, the mayor-council structure denotes either a

<https://icma.org/sites/default/files/2018%20Municipal%20Form%20of%20Government%20Survey%20Report.pdf>.

8. *Id.*

9. *Id.*; ENGLAND ET AL., *supra* note 4, at 79.

10. *Int'l City/City Mgmt. Ass'n, Council-Manager Form of Government: What It Is, How It Works, and the Benefits to Your Community* (Nov. 30, 2019), <https://icma.org/documents/council-manager-form-government-what-it-how-it-works-and-benefits-your-community-brochure>. Adoption methods vary by state, but most include “charter, local ordinance, state enabling law, or by voter referendum.”

11. See Kimberly L. Nelson & James H. Svara, *The Roles of Local Government Managers in Theory and Practice: A Centennial Perspective*, 75 *PUB. ADMIN. REV.* 49, 56–58 (2015); James H. Svara & Kimberly L. Nelson, *Taking Stock of the Council-Manager Form at 100*, *PUB. MGMT.*, Aug. 2008, at 6–15.

12. See L. Lynn Rex, *League of Neb. Muns., City Administrator Ordinance Study* (July 2015).

13. See, e.g., H. George Frederickson, Gary Alan Johnson, & Curtis Wood, *The Changing Structure of American Cities: A Study of the Diffusion of Innovation*, 64 *PUB. ADMIN. REV.* 320, 322–24 (2004).

‘strong’ or ‘weak’ mayor system, differentiated by oversight authority of administration designated to the mayor ‘strong’ or city council ‘weak’.¹⁴ In both, the addition of a CAO can produce assorted assemblies, which depend upon the hierarchical situation of the CAO under the mayor or council, the executive and veto powers retained for the mayor, and the formalized tasks assigned to the mayor or CAO such as budgeting preparation and personnel supervision.¹⁵ Thus, the array of plausible legal compositions implies incongruity in definition and application.

The lack of standardization evokes another primary factor in the legal formulations for the city administrator structure, referring to the role of the state. As set forth by the promulgation of Dillon’s Rule, local governments represent political subdivisions with only those powers conferred by the state legislature.¹⁶ In this way, the state holds unchallengeable authority over municipalities, and the statutory discretion of the state legislature may determine the prospects for the city administrator form. Historically, less than half of states have pursued statutes to address the legal basis of the city administrator design.¹⁷ Yet, in those states that supply statutes, the rate of usage for CAOs tends to be higher.¹⁸

In state contexts, previous analyses demonstrate distinctions in political and administrative models,¹⁹ as well as the effects of adapted iterations for city management.²⁰ Prior works have explored several aspects of states, including statutes,²¹ legal environments,²² local

14. Victor S. DeSantis & Tari Renner, *City Government Structures: An Attempt at Clarification*, 34 ST. & LOC. GOV’T REV. 95, 99–102 (2002).

15. See David N. Ammons, *City Manager and City Administrator Role Similarities and Differences: Perceptions Among Persons Who Have Served as Both*, 38 AM. REV. PUB. ADMIN. 24, 27 (2008).

16. *Hunter v. City of Pittsburgh*, 207 U.S. 161, 178–79 (1907).

17. Kimberly Nelson, *State-Level Autonomy and Municipal Government Structure: Influence on Form of Government Outcomes*, 41 AM. REV. PUB. ADMIN. 542, 549–51 (2011).

18. *Id.* at 550.

19. See, e.g., Kimberly L. Nelson & James H. Svara, *Adaptation of Models Versus Variations in Form: Classifying Structures of City Government*, 45 URB. AFF. REV. 544, 546–48 (2010).

20. See, e.g., H. George Frederickson & Gary Alan Johnson, *The Adapted American City: A Study of Institutional Dynamics*, 36 URB. AFF. REV. 872, 876–81 (2001) (addressing the mixture of political and administrative traits that have adapted traditional forms of government); Richard C. Schragger, *Can Strong Mayors Empower Weak Cities? On the Power of Local Executives in a Federal System*, 115 YALE L. J. 2542, 2556–70 (2006); Chris Tausanovitch & Christopher Warshaw, *Representation in Municipal Government*, 108 AM. POL. SCI. REV. 605, 607–08 (2014).

21. See, e.g., Christopher B. Goodman, Megan E. Hatch, & Bruce D. McDonald, III, *State Preemption of Local Laws: Origins and Modern Trends*, 4 PERSP. PUB. MGMT. & GOVERNANCE 146, 147–52 (2021).

22. See, e.g., Rodney E. Hero, *Understanding Urban Governmental Structures: An Analysis Controlling for the Influence of State Law*, 16 PUBLIUS 133, 134–35 (1986).

authority,²³ and related policy outcomes.²⁴ However, the legal delegations for the city administrator form and the conflicts of law in the creation of CAO ordinances remain less resolved. Legal constraints enacted by the state legislature and courts may have a considerable effect on the configurations of local governments.²⁵ The impact of this relationship portends an enduring ambiguity toward universal designs for city administrator structures.

This article proceeds as follows. Part II explores the background of municipal incorporation and legal factors for the city administrator structure. Part III presents an analysis of legal frameworks, including a categorization of states for city administration and judicial interpretations affecting governmental form. Part IV provides discussion and implications through a state case study of CAO ordinances in Nebraska. Part V offers concluding statements on the potential for legal standardization. We assert that two primary legal frameworks emerge as influential for the city administrator form in U.S. local government: statutory definitions provided by state legislation and the courts, and the extent of local autonomy afforded through the legal distributions of federalism. Ultimately, the lack of consistency within and across the various states suggests that the possibility for universality in city administrator configurations is limited and may be more suited to reflect the specific professional needs and governance expectations of individual municipalities.

II. BACKGROUND

The legal establishment of a city begins with incorporation, a state-regulated process typically determined by population size, which grants the adoption of a charter with permitted legal authorities.²⁶ The charter officially designates the form of government. By this procedure, the city administrator structure exemplifies an adaptation of the mayor-council charter, in which the city council creates a chief administrative officer (CAO) position, by appointment and ordinance, to assist the mayor with executive administration.²⁷ The city administrator may assume such assignments as personnel supervision, budgeting,

23. See, e.g., Bruce J. Perlman, *The Illusion of Local Control: The Paradox of Local Government Home Rule*, 48 ST. & LOC. GOV'T REV. 189, 189–93 (2016).

24. See, e.g., Jered B. Carr & Shanthi Karuppusamy, *Reassessing the Link Between City Structure and Fiscal Policy: Is the Problem Poor Measures of Governmental Structure?*, 40 AM. REV. PUB. ADMIN. 209, 209–10 (2010).

25. See Heidi Koenig & Amy Kise, *Law and the City Manager: Beginning to Understand the Sources of Influence on the Management of Local Government*, 6 J. PUB. ADMIN. RES. & THEORY 443, 444 (1996).

26. ANN O'M. BOWMAN & RICHARD C. KEARNEY, STATE AND LOCAL GOVERNMENT 281 (11th ed. 2022).

27. See FREDERICKSON ET AL., *supra* note 2, at 93–99.

departmental oversight, service delivery, and policy advisement.²⁸ Unlike the formalized statutes of the council-manager form, many variations exist in mayor-council cities for the structural accountability and discretion of the CAO²⁹ and the degree of power delegated to the CAO or reserved for the mayor.³⁰ This results in a wide spectrum among cities and states for the city administrator configuration,³¹ lending to the impact of state directives in the form of city charters and the legal practicability of local ordinances.

The National Municipal League created the *Model City Charter* in the early 1900s, endorsing both the mayor-council and council-manager forms.³² The *Model City Charter* acts as a guideline for states in framing the legal parameters for incorporated cities, with details of the operational arrangement and the associated tasks of officials.³³ Yet, the modern utility and applicability of the *Model City Charter* has been questioned, as traditional mayor-council devices may not represent the legal evolutions of the city administrator form.³⁴

The development of a model city administrator ordinance has likewise been problematic. As city charters are classically dichotomous to mayor-council and council-manager, the legal instructions for the CAO position are often subject to the interpretation of state law for the general municipal code.³⁵ While professional organizations have attempted to fashion model city ordinances for CAOs, difficulties arise due to the wide variation of state laws, the differences in state classifications of local governments, and the dynamic complexion of the legal interpretations of Dillon's Rule and home rule.³⁶

28. *Id.* at 128–36.

29. See Kimberly L. Nelson & James H. Svara, *Form of Government Still Matters: Fostering Innovation in U.S. Municipal Governments*, 42 AM. REV. PUB. ADMIN. 257, 260–61 (2012).

30. See Ammons, *supra* note 15, at 32–33.

31. See, e.g., Jered B. Carr & Shanthi Karuppusamy, *Beyond Ideal Types of Municipal Structure: Adapted Cities in Michigan*, 39 AM. REV. PUB. ADMIN. 304, 308–09 (2009).

32. H. George Frederickson, Curtis Wood, & Brett Logan, *How American City Governments Have Changed: The Evolution of the Model City Charter*, 90 NAT'L CIVIC REV. 3, 6-7 (2001).

33. See generally NAT'L CIVIC LEAGUE, MODEL CITY CHARTER (9th ed. 2021), <https://www.nationalcivicleague.org/model-city-charter-9th-edition/> (outlining charter directives for city officers and operations, which address council-manager structures and additional options for CAOs in mayor-council cities).

34. James H. Svara, *Do We Still Need Model Charters? The Meaning and Relevance of Reform in the Twenty-First Century*, 90 NAT'L CIVIC REV. 19, 20-21 (2001).

35. See Robert F. Blair & Anthony M. Starke, Jr., *The Emergence of Local Government Policy Leadership: A Roaring Torch or a Flickering Flame?*, 49 ST. & LOC. GOV'T REV. 275, 277–79 (2017).

36. See, e.g., ROBERT BLAIR & DALE KRANE, NEB. COMM'N ON LOC. GOV'T INNOVATION AND RESTRUCTURING, NEBRASKA HOME RULE PROJECT PHASE II: MODEL LEGISLATION 3–5 (Apr. 2000); Rex, *supra* note 12.

Dillon's Rule, based on the Iowa Supreme Court decisions of Judge John Dillon, is a rule of "statutory construction," verifying the control of state legislatures over the actions and functions of local governments.³⁷ Dillon's Rule descends from U.S. Constitutional interpretation, expressing that, because there is no formal mention of local governments, the charge of localities is a reserved residual power afforded to the states by the Ninth and Tenth Amendments.³⁸ These Amendments stipulate those powers preserved by the people³⁹ and the states⁴⁰ that do not have articulation within the Constitution. In a landmark decision in 1907, the U.S. Supreme Court upheld Dillon's Rule, affirming that localities may only exercise those powers expressly granted to them by the state.⁴¹ Thirty-nine of the fifty states invoke some form of Dillon's Rule; states may vary in the application to assorted types of local governments, such as counties or special districts, and to distinctive classifications of municipalities and city charters.⁴²

For the courts, Dillon's Rule provides a basis for statutory interpretation, meaning that when legal challenges arise relating to state authority or the extent of power exercised by city ordinances, Dillon's Rule is applied.⁴³ Yet, the absoluteness and strict construction of Dillon's Rule contribute to complications for autonomy in local management and operation.⁴⁴ As such, most states have adopted some type of a home rule provision.

Home rule, a response to the wide reach of Dillon's Rule, first realized establishment in the State of Missouri in 1875 and now operates in forty-four states.⁴⁵ Home rule refers to a state statutory or constitutional clause that allots to cities a level of self-government over local affairs and activities, such as the appointment of officers, by accepting the terms of the state's home rule legislation.⁴⁶ Home rule statutes and constitutional amendments differ by state, which may assign only

37. Jesse J. Richardson, Jr., *Dillon's Rule is from Mars, Home Rule is from Venus: Local Government Autonomy and the Rules of Statutory Construction*, 41 *PUBLIUS* 662, 665–69 (2011); See *City of Clinton v. Cedar Rapids & M.R.R. Co.*, 24 Iowa 455, 464–65 (1868).

38. See Richardson, Jr., *supra* note 37, at 666; JON D. RUSSEL & AARON BOSTROM, AM. CITY CTY. EXCH., *FEDERALISM, DILLON RULE AND HOME RULE 3* (Jan. 2016), <https://alec.org/wp-content/uploads/2016/01/2016-ACCE-White-Paper-Dillon-House-Rule-Final.pdf>.

39. U.S. CONST. amend. IX.

40. U.S. CONST. amend. X.

41. See *Hunter v. City of Pittsburgh*, 207 U.S. 161, 178–79 (1907).

42. Richardson, Jr., *supra* note 37, at 666–68.

43. See *id.* at 664.

44. See, e.g., Frank Vram Zerunyan, *The Evolution of the Municipal Corporation and the Innovations of Local Governance in California to Preserve Home Rule and Local Control*, XLIV *FORDHAM URB. L. J.* 217, 228–30 (2017).

45. RUSSEL & BOSTROM, *supra* note 38, at 6.

46. *Home Rule*, BLACK'S LAW DICTIONARY (12th ed. 2024).

cities of certain criteria to adopt home rule charters.⁴⁷ Adding to the legal complexity, the application of Dillon's Rule and home rule among states is not exclusive.⁴⁸ Thirty-one states apply some combination of both.⁴⁹

Home rule may likewise produce a paradoxical dynamic to state-local relations, as municipalities may seek full autonomy yet are constrained by the economic and political reliance on state governments.⁵⁰ In addition, home rule provisions may be deceptively restrictive,⁵¹ given that states reserve the right to preempt local governments in all areas of operation⁵² and management.⁵³ For example, states may place controls on cities by various classifications of population or size, which may dictate form of government or may preempt local ordinances that modify or adapt governmental structure.⁵⁴ As state statutes for CAOs generally possess less clear legal directives, the degree to which home rule assists in establishing city administrator forms may be more complicated and, in some cases, legally challenging.⁵⁵

State law may affect local government structure in other ways. The quality of professional administration for states denotes an inclination toward models for public management, particularly in areas of expertise, efficiency, and partisan neutrality, which may be characterized within state statutory regulations.⁵⁶ State centralization may likewise influence legislation pursuant to local government authority and supervision⁵⁷ and state rules suggest both explicit and implicit effects on structural options.⁵⁸ Almost half of all states specify

47. *Nat'l League of Cities, Principles of Home Rule for the 21st Century*, 29 (Dec. 10, 2020), <https://www.nlc.org/wp-content/uploads/2020/02/Home-Rule-Principles-Report-WEB-2-1.pdf>.

48. DALE KRANE, PLATON N. RIGOS, & MELVIN B. HILL JR., *HOME RULE IN AMERICA: A FIFTY-STATE HANDBOOK* 15 (2001).

49. *Id.*; RUSSELL & BOSTROM, *supra* note 38, at 8; Nat'l Ass'n of Ctys., *County Structure, Authority, and Finances*, COUNTIES 101 (2022), <https://www.naco.org/page/county-structure-authority-and-finances>.

50. Perlman, *supra* note 23, at 191.

51. See KRANE ET AL., *supra* note 48, at 16.

52. See, e.g., Blair & Starke, Jr., *supra* note 35, at 279.

53. See, e.g., David J. Barron, *Reclaiming Home Rule*, 116 HARV. L. REV. 2255, 2300–08 (2003).

54. See, e.g., *Nat'l League of Cities, supra* note 47, at 20–21.

55. See Laurie Reynolds, *A Role for Local Government Law in Federal-State-Local Disputes*, 43 URB. LAW 977, 996–1000 (2011).

56. E.g., Lee Sigelman, *The Quality of Administration: An Exploration in the American States*, 8 ADMIN. & SOC'Y 107, 110–11 (1976).

57. See, e.g., Frederick M. Wirt, *The Dependent City? External Influences upon Local Control*, 47 J. POL. 83, 84–86 (1985).

58. See Hero, *supra* note 22, at 137–38.

mayor-council as the legal default for cities, which is more conducive to the city administrator form.⁵⁹ Conversely, state statutory prohibitions or the absence of legal guidance for local government management may impede the utilization of CAOs among municipalities.⁶⁰

Home rule customarily includes local control over form of government,⁶¹ which ostensibly involves inherently local concerns that are specific to managerial ventures and enterprise.⁶² However, the legal checks of Dillon's Rule and other related interferences by the legislature and courts may limit the exercise and desirability for professional managers.⁶³ As the state represents the primary context for the operationalization of the city administrator form, the legal frameworks for municipal structure are provisional to state prescriptions for statutory autonomy imparted by state law and the judicial interpretations of those laws by state courts.

III. LEGAL FRAMEWORKS

A. STATE STATUTES

As state law represents the principal impetus for local government structure, our assessment of legal frameworks for the city administrator form begins with a statutory and institutional categorization of the fifty states. The legislative organization of municipalities⁶⁴ and relevant statutes for all fifty states were analyzed by content of pertinent language, or lack thereof, which provides legal guidelines for the establishment, operation, and application of the chief administrative officer (CAO) form and position. For legal and statutory purposes, the designation of a state as home rule, Dillon's Rule, or a combination of both was included to demarcate this aspect of state law.⁶⁵ Other factors selected for categorization involve characteristics of state institutions and culture that are most associated with city administrator government, including promulgations of professional city management by

59. Nelson, *supra* note 17, at 549.

60. *Id.* at 550–51.

61. ENGLAND ET AL., *supra* note 4, at 87.

62. See Barron, *supra* note 53, at 2300–01.

63. See Koenig & Kise, *supra* note 25, at 454–56.

64. U.S. Census Bureau, *2022 Census of Governments: Individual State Descriptions 2022* (Apr. 2024), <https://www.census.gov/content/dam/Census/library/publications/2024/econ/2022ISD.pdf>.

65. *Id.*; KRANE ET AL., *supra* note 48, at 476–77; RUSSELL & BOSTROM, *supra* note 38, at 6–8; Nat'l Ass'n of Cty., *supra* note 49.

supporting organizations,⁶⁶ the nature of political culture,⁶⁷ and socio-economic attributes.⁶⁸

Professional recognition formally acknowledges the number of city administrator forms of government within a state identified by criteria for general professional management by the International City/County Management Association (ICMA), the premier local government management organization worldwide.⁶⁹ Political culture considers the dominant types within a state, as per Daniel Elazar's sorting,⁷⁰ which suggests affiliations with professionalized local government structures such as the city administrator form.⁷¹ Socioeconomic standing involves the mean of individual state rankings by the United States Census Bureau⁷² for indicators of economic viability from prior research that demonstrate associations with CAO forms of municipal management,

66. See, e.g., David N. Ammons, *The Role of Professional Associations in Establishing and Promoting Performance Standards for Local Government*, 17 PUB. PROD. & MGMT. REV. 281, 282–83 (1994); Robert L. Kline & Paul D. Blanchard, *Professionalism and the City Manager: An Examination of Unanswered Questions*, 7 AM. REV. PUB. ADMIN. 163, 172–73 (1973); Gregory Streib, *Quantifying the Knowledge of Public Management Professionals: Developing an Assessment Tool for Local Government Managers*, 28 PUB. PERFORMANCE & MGMT. REV. 418, 420–21 (2005).

67. See, e.g., David Y. Miller, *The Impact of Political Culture on Patterns of State and Local Government Expenditures*, 21 PUBLIUS 83, 88–94 (1991); Tom W. Rice & Alexander F. Sumberg, *Civic Culture and Government Performance in the American States*, 27 PUBLIUS 99, 106–08 (1997); Raymond E. Wolfinger & John Osgood Field, *Political Ethos and the Structure of City Government*, 60 AM. POL. SCI. REV. 306, 310 (1966).

68. See, e.g., *Int'l City/Cty. Mgmt. Ass'n.*, *supra* note 10 (suggesting that municipalities with professional structures exhibit higher bond ratings and financial efficiency measures); Robert L. Lineberry & Edmund P. Fowler, *Reformism and Public Policies in American Cities*, 61 AM. POL. SCI. REV. 701, 704–09 (1967); Leo F. Schnore & Robert R. Alford, *Forms of Government and Socioeconomic Characteristics of Suburbs*, 8 ADMIN. SCI. Q. 1, 11–13 (1963); Edgar L. Sherbenou, *Class, Participation, and the Council-Manager Plan*, 21 PUB. ADMIN. REV. 131, 132–34 (1961).

69. Int'l City/Cty. Mgmt. Ass'n, *ICMA Local Government Recognition*, RECOGNITION OF LOCAL GOVERNMENTS (Jan. 29, 2025), <https://icma.org/icma-local-government-recognition>. ICMA provides two types of recognition, council-manager and general management. The general management recognition is for local governments with professional structures, namely the city administrator form, that are not of the council-manager form. Criteria for the general management recognition include appointment, policy, budget, appointing authority, organizational relationships, and qualifications. To receive recognition status, local governments must apply to ICMA and meet the criteria. All general-purpose local governments are eligible for recognition.

70. DANIEL J. ELAZAR, *THE AMERICAN MOSAIC: THE IMPACT OF SPACE, TIME, AND CULTURE ON AMERICAN POLITICS* 229–57 (1994). Elazar's primary political cultures within the U.S. states include the individualistic culture of professionalization, the moralistic culture of commonwealth, and the traditionalistic culture of community and social order.

71. FREDERICKSON ET AL., *supra* note 2, at 46 (identifying that individualistic and moralistic cultures exhibit a relationship with professional forms of local government management in U.S. states).

72. U.S. Census Bureau, *2024 American Community Survey 1-year estimates*, RANKING TABLES (Oct. 10, 2025), <https://www.census.gov/acs/www/data/data-tables-and-tools/ranking-tables/>. Socioeconomic standing of individual states was determined by the mean rankings of the state in the tables for Median Household Income, Percent of Occupied Housing Units That Are Owner Occupied, and Percent of People 25 Years and Over Who Have Completed a Bachelor's Degree.

including median household income,⁷³ rate of homeownership,⁷⁴ and education level.⁷⁵ From this formulaic content analysis, the following describes the four categorical types for the city administrator form of local government among states, as displayed in Table 1.

Table 1: Categories of States for the City Administrator Form of Local Government

Institutional & Cultural Factors	Legal Factors	
	<i>High</i>	<i>Low</i>
<i>High</i>	<p>Type I Connecticut, Georgia, Iowa, Kansas, Massachusetts, Missouri, Nebraska, New Hampshire, New Jersey, New York, Utah, Virginia</p>	<p>Type III California, Colorado, Illinois, Maine, Minnesota, Ohio, Oregon, Pennsylvania, Texas, Vermont, Washington, Wisconsin, Wyoming</p>
<i>Low</i>	<p>Type II Arizona, Arkansas, Florida, Indiana, Kentucky, Maryland, Michigan, Mississippi, Montana, New Mexico, North Carolina, South Carolina, South Dakota, Tennessee, West Virginia</p>	<p>Type IV Alabama, Alaska, Delaware, Hawaii, Idaho, Louisiana, Nevada, North Dakota, Oklahoma, Rhode Island</p>

1. *Type I*

The states in this category express a robust legal foundation for the city administrator form, possessing both explicit state statutes and home rule powers. These states set specialized laws for the charters and ordinances of the CAO structure, which may delineate appointment and supervisory powers, duties, authorities, and relationships with the elected mayor and council. State statutes in Georgia,⁷⁶ Iowa,⁷⁷

73. *E.g.*, Lineberry & Fowler, *supra* note 68.

74. *E.g.*, Thomas R. Dye & Susan A. Macmanus, *Predicting City Government Structure*, 20 AM. J. POL. SCI. 257, 259–63 (1976).

75. *E.g.*, David R. Berman & Bruce D. Merrill, *Citizen Attitudes toward Municipal Reform Institutions: A Testing of Some Assumptions*, 29 W. POL. SCI. Q. 274, 276–82 (1976).

76. GA. CODE ANN. §§ 36-31, 36-34, 36-351 (2025).

77. IOWA CODE §§ 372.1, 372.4 (2025).

Kansas,⁷⁸ Massachusetts,⁷⁹ New York,⁸⁰ and Utah⁸¹ provide instructions for the mayor-council form to create a CAO position, described in and subject to state law, by local ordinance. Some states are more precise in legislative outlays, such as Missouri statutes that authorize CAOs for cities of the third and fourth classes and define duties, structure, supervision, and qualifications of the city administrator.⁸² Nebraska statutes address the city administrator form of government specifically for cities of the first class, including appointment and removal of a CAO, while second-class cities and villages may likewise appoint officers by ordinance.⁸³ Type I states also provide distinct legal parameters for the city administrator, such as Connecticut⁸⁴ and New Hampshire,⁸⁵ which include state laws pursuant to authority, qualifications, political neutrality, and removal. New Jersey⁸⁶ and Virginia⁸⁷ statutes designate the CAO position, with specific provisions for appointment, duties and powers, and legal structure.

Type I states also confer home rule powers for municipalities, which may grant broader discretion in local affairs.⁸⁸ The ease of access and the availability of home rule extends a quasi-independence of operations and an expanded influence over localized governance.⁸⁹ While some Type I states assert a combination of home rule and Dillon's Rule, the home rule designation is available to a majority of municipalities and Dillon's Rule may be limited in application.⁹⁰

Type I states indicate an intensified environment of institutional and cultural factors for professional local government management. These states display a high number and proportion of ICMA recognitions for the general management structure.⁹¹ Type I states possess high socioeconomic rankings and primarily individualistic political cultures, which epitomize governmental systems based upon merit, efficiency, and business-like character, demonstrating a propensity for professional organization in governance.⁹²

78. KAN. STAT. ANN. §§ 12-1039-1041, 12-10a01-10a09, 13-103, 15-1601 (2025).

79. MASS. GEN. LAWS ch. 39, § 1; ch. 41, § 23A; ch. 43, § 2 (2025).

80. N.Y. MUN. HOME RULE LAW § 10 (LexisNexis 2025).

81. UTAH CODE ANN. §§ 10-3b-103, 10-3b-303, 10-3b-601 (LexisNexis 2025).

82. MO. REV. STAT. §§ 77.042, 77.044 (2025). Classes are by population.

83. NEB. REV. STAT. §§ 16-308, 17-108, 17-208 (2025). Classes are by population.

84. CONN. GEN. STAT. §§ 7-98, 7-193 (2025).

85. N.H. REV. STAT. ANN. §§ 37:3, 49-D:2 (2025).

86. N.J. REV. STAT. §§ 40:69A-149.2, 40:69A-149.8, 40:69A-149.9 (2025).

87. V.A. CODE ANN. §§ 15.2-1540, 15.2-1541 (2025).

88. See RUSSEL & BOSTROM, *supra* note 38, at 6.

89. See ENGLAND ET AL., *supra* note 4, at 87.

90. See U.S. Census Bureau, *supra* note 64.

91. Int'l City/Cty. Mgmt. Ass'n, *Directory of ICMA-Recognized Local Governments*, RECOGNITION OF LOCAL GOVERNMENTS (Jan. 29, 2025), <https://members.icma.org/eweb/DynamicPage.aspx?webcode=recognizedlocalgovsearch&site=icmares>.

92. ELAZAR, *supra* note 70, at 230–32.

2. Type II

This category represents the states with more moderate legal factors and lower institutional and cultural factors conducive to the city administrator form. Although possessing much less precise statutes than Type I states, the laws of Type II states do identify CAOs, with some specific edicts for the city administrator form and legal guidelines for the appointment or creation of the position by ordinance. Additionally, some Type II states do designate legal definitions for city administrators, which may include qualifications, duties, and general authorities. Type II states also exhibit a high inclination for home rule legislation and availability of granted autonomy in local affairs, within the restrictions of Dillon's Rule.⁹³

Type II state statutes mostly order municipal forms of government with council-manager and mayor-council structures, the latter being amendable with a CAO position. For example: Indiana,⁹⁴ North Carolina,⁹⁵ South Carolina,⁹⁶ and West Virginia⁹⁷ admit municipalities to add a city administrator by ordinance to the mayor-council form, which is a statutory default by population size, but offer limited description for enactment. Likewise, Maryland⁹⁸ and Montana⁹⁹ extend discretion for municipalities to select a form of government and the addition of a CAO by ordinance but similarly provide little legal guidance. South Dakota statutes recognize the mayor-council and commission structures, with an appointed manager or CAO able to serve with any form of government.¹⁰⁰ However, some Type II states are more direct in designation and appointment, comparable to Type I states. Arkansas,¹⁰¹ Mississippi,¹⁰² New Mexico,¹⁰³ and Tennessee¹⁰⁴ all have individual statutes for CAOs that indicate legal procedures for creation, responsibilities and duties, and employment. Other Type II states qualify the selection for structure by home rule status, such as Arizona,¹⁰⁵ Florida,¹⁰⁶ Kentucky,¹⁰⁷ and Michigan,¹⁰⁸ which permit CAOs under granted powers for local affairs.

93. See RUSSELL & BOSTROM, *supra* note 38, at 8–9.

94. IND. CODE §§ 36-4-5, 36-4-9, 36-4-12 (2025).

95. N.C. GEN. STAT. §§ 160A-101, 160A-148, 160A-155 (2025).

96. S.C. CODE ANN. §§ 5-9-40, 5-13-20 (2025).

97. W. VA. CODE §§ 8-3-2, 8-3A-1 (2025).

98. MD. CODE ANN., LOC. GOV'T §§ 4-1, 4-2, 4-3 (2025).

99. MONT. CODE ANN. §§ 7-3-102, 7-3-441 (2025).

100. S.D. CODIFIED LAWS §§ 9-2-4, 9-8-1, 9-11-5, 9-14-3 (2025).

101. ARK. CODE ANN. §§ 14-43, 14-44, 14-48 (2025).

102. MISS. CODE ANN. §§ 21-3-1, 21-3-3, 21-3-25, 21-8-1, 21-8-25 (2025).

103. N.M. STAT. ANN. §§ 3-11, 3-12, 3-13-3 (2025).

104. TENN. CODE ANN. § 6-4-101 (2025).

105. ARIZ. REV. STAT. §§ 9-2, 9-303 (2025).

106. FLA. STAT. §§ 165, 166 (2025).

107. KY. REV. STAT. §§ 81.005, 83A.130 (LexisNexis 2025).

108. MICH. COMP. LAWS §§ 81.1c, 85.3 (2025).

Despite the existence of favorable legal characteristics for the city administrator form, Type II states reveal a dearth of institutional and cultural factors. These states show a lower overall presence of ICMA-recognized jurisdictions, which may convey a lack of support for professionalized management and structures among local governments.¹⁰⁹ The socioeconomic ranking of these states is among the lower half of the United States, with predominantly traditionalistic and moralistic political cultures that symbolize a basis of paternalistic moralism in politics, collective systems, and ministerial guardianship of the public good.¹¹⁰

3. *Type III*

This category represents the states with lower legal factors and high institutional and cultural attributes for the city administrator form. While these states display widespread use of CAO government, most do not provide an overt statutory source. In general, Type III states do not address the city administrator position or structure by state law, although perhaps directing statutory guidelines for the mayor-council and council-manager forms. Many Type III states do permit the appointment of administrative officers by local ordinance but fail to specify the legal constructs regarding CAOs. These states likewise preserve the legal auspices of Dillon's Rule or limited home rule,¹¹¹ which impedes control over form of government.

Type III states furnish modest legislative frameworks for the CAO position while outlining statutes for mayor-council, council-manager, and commission forms of government. Colorado¹¹² and Ohio¹¹³ permit the appointment of city/town and village administrators, with no effectual provisions for the city administrator structure. Oregon¹¹⁴ and Vermont¹¹⁵ leave appointment power by ordinance to city councils but do not identify structures. Wisconsin¹¹⁶ and Wyoming¹¹⁷ designate the appointment of administrative officers by ordinance to mayor-council cities, with no distinction for CAOs. Other states, such as

109. See Christian L. Janousek, *In Proximity to Professionalism: A Regional Analysis of Master of Public Administration Programs and Local Government Management*, 23 J. PUB. AFF. EDUC. 591, 592-93 (2017).

110. ELAZAR, *supra* note 70, at 232-37.

111. U.S. Census Bureau, *supra* note 64.

112. COLO. REV. STAT. §§ 31-1, 31-2, 31-4 (2025).

113. OHIO REV. CODE ANN. §§ 703, 705, 733 (LexisNexis 2025).

114. OR. REV. STAT. §§ 221.110, 221.140 (2025).

115. VT. STAT. ANN. tit. 24 §§ 1232, 1233, 1235, 1236 (2025).

116. WIS. STAT. §§ 61.19, 62.09, 64.30 (2025).

117. WYO. STAT. ANN. §§ 15-2, 15-3, 15-4 (2025).

California,¹¹⁸ Maine,¹¹⁹ and Washington,¹²⁰ proffer specificity in legal operation for the city manager position, with granted powers to the council for appointment and charter amendment. Minnesota statutes authorize municipalities to select form of government by charter, including mayor-council, commission, and council-manager structures, which may involve alternative models with the inclusion of a CAO.¹²¹ Legislative guidance for form of government in Type III states is commonly contingent on population class, such as in Illinois,¹²² or may be associated with home rule status, such as in Texas.¹²³ For example, Pennsylvania statutes have rules for varying classes, with provisions for general structure of government, namely mayor-council with a city administrator, and the ability of home rule municipalities to establish form.¹²⁴

Type III states forecast an amenable environment for professional local government management in institutional and cultural factors. Notwithstanding a curtailed legal foundation for the city administrator form, Type III states largely contain a high number or proportion of ICMA-recognized jurisdictions and general management municipalities.¹²⁵ These states tend to rank highly in socioeconomic standing, with individualistic and moralistic ideals in political culture that signify an adherence to professionalized systems, a mutual obligation of economic and civil progressivism, and a nonpartisan approach to governance.¹²⁶

4. *Type IV*

This category represents the states with low legal, institutional, and cultural factors for the city administrator form. Type IV states provide narrow statutory guidelines for municipal government structure, with little or no legal designations for CAOs. These states have specialized laws for municipal options in governmental operation. Type IV states seldomly identify the city administrator form and confine the legal appointment of administrative positions by local ordinance. Type IV states are largely Dillon's Rule states with nominal home rule legislation that restricts granted powers.¹²⁷

118. CAL. GOV'T CODE §§ 34851, 36501 (2025).

119. ME. STAT. tit. 30-A, §§ 2102, 2631 (2025).

120. WASH. REV. CODE §§ 35.01, 35.17, 35.18 (2025).

121. MINN. STAT. §§ 410, 412 (2025).

122. 65 ILL. COMP. STAT. §§ 5/4-5, 5/5-3, 5/6-4 (2025).

123. TEX. LOC. GOV'T CODE ANN. §§ 22.071, 22.072, 23.051, 26.021, 26.041 (2025).

124. 11 PA. CONS. STAT. §§ 112A, 201; 53 PA. CONS. STAT. §§ 2961, 3001, 3031, 3041 (2025).

125. Int'l City/Cty. Mgmt. Ass'n., *supra* note 91.

126. ELAZAR, *supra* note 70, at 230–35.

127. See RUSSEL & BOSTROM, *supra* note 38, at 8–9.

Type IV states tend to constrain administrative positions under legislative charge, with no legitimate construction for CAOs. Alabama,¹²⁸ Nevada,¹²⁹ and North Dakota¹³⁰ do outline mayor-council and commission structures, with reserved authority for the council to appoint administrative officers. Yet, states such as Idaho¹³¹ and Oklahoma¹³² simply label standard dichotomous legal operations of mayor-council and council-manager plans. While rationed, home rule designations in Alaska¹³³ and Delaware¹³⁴ do sanction choice of government, but there are no provisions for a city administrator. Hawaii includes one municipal government, Honolulu, with all other local governments classified by county, which do retain the power to conduct governmental operations and create administrative positions with supervision of the council.¹³⁵ Under a unique legal format, Louisiana state laws account the mayor-alderman form, a default for non-home rule localities, while other jurisdictions may include appointed administrative positions by the council.¹³⁶ Rhode Island statutes do not address form of government, but do include provisions for town meeting structures and for the town council to oversee management and administration.¹³⁷

Type IV states likewise exhibit disadvantageous institutional and cultural factors toward professionalized management. These states have small numbers or proportions of ICMA-recognized jurisdictions for general management, with some states having little or no presence of professional administrators or associations.¹³⁸ These states also rank in the bottom half socioeconomically, with political cultures predominantly of traditionalistic and moralistic ideals that encourage hierarchical politics, communitarian systems, and representative governments that are more attuned to political rather than professionalized governance structures.¹³⁹

B. JUDICIAL INTERPRETATIONS

Invariably, the responsibility to interpret the legality of the city administrator form rests with state courts, as enabling ordinances are subject to statutory boundaries of local autonomy.¹⁴⁰ An overarching

128. ALA. CODE §§ 11-43, 11-44 (2025).

129. NEV. REV. STAT. §§ 266.395, 267.110 (2025).

130. N.D. CENT. CODE §§ 40-03.2, 40-04.1, 40-05.1, 40-14 (2025).

131. IDAHO CODE §§ 50-6, 50-7, 50-8 (2025).

132. OKLA. STAT. tit. 11, §§ 9-101, 10-101, 11-101 (2025).

133. ALASKA STAT. §§ 29.04, 29.10, 29.20 (2025).

134. DEL. CODE ANN. tit. 22, § 811-815 (2025).

135. HAW. REV. STAT. §§ 46-1.5, 46-32 (2025).

136. LA. STAT. ANN. §§ 33:321, 33:361 (2025).

137. 45 R.I. GEN. LAWS §§ 45-3, 45-5 (2025).

138. Int'l City/Cty. Mgmt. Ass'n, *supra* note 91.

139. ELAZAR, *supra* note 70, at 232–37.

140. See Richardson, Jr., *supra* note 37, at 662–65.

element of federalism adds to the legal convolution, referring to the precedent of Dillon's Rule as an authoritative and Constitutional precept.¹⁴¹ Unique to home rule states, the degree of legal interpretation is often amplified, as home rule amendments and charters allow cities to function with more latitude in local affairs if those affairs are not preempted or in contradiction to other general-purpose laws of the state.¹⁴²

Relevant court cases were selected from the states of Georgia (Type I), Iowa (Type I), Maryland (Type II), Missouri (Type I), Nebraska (Type I), New Mexico (Type II), New York (Type I), Ohio (Type III), Pennsylvania (Type III), Tennessee (Type II), and Wyoming (Type III). These cases represent a cross-section of judicial elucidations for statutes and amendments affecting the state-local relationship for Dillon's Rule and home rule in the selection of municipal management structure and the application of local autonomy and provision for the city administrator form.¹⁴³

1. *Dillon's Rule*

Dillon's Rule avers that local governments derive all power from the state and may exercise only those powers sanctioned by the state.¹⁴⁴ In *City of Clinton v. Cedar Rapids & M. R. R. Co.*,¹⁴⁵ the City of Clinton, by order of the city council, attempted an injunction against the railroad from building tracks through its city streets in a direct challenge to both federal and state law.¹⁴⁶ The court held that the property in question vests in the state, as a municipal corporation holds no interest in such property as merely an agent of the state.¹⁴⁷ The court concluded that municipal corporations are entirely subject to state control with rights only "at the absolute will and pleasure of

141. See *Hunter v. City of Pittsburgh*, 207 U.S. 161, 178–79 (1907).

142. See, e.g., Zerunyan, *supra* note 44, at 220–21.

143. Cases were selected from Type I, Type II, and Type III states, as these states display the highest prevalence of city administrator government, which offers a more representative context for legal challenges and precedent. As Type IV states exhibit little to no statutory designations for the CAO structure, judicial interpretations to this extent are limited and lack legal generalization and application.

144. *Hunter*, 207 U.S. at 178–79.

145. 24 Iowa 455 (1868).

146. *City of Clinton v. Cedar Rapids & M.R.R. Co.*, 24 Iowa 455, 464–65 (1868).

147. *City of Clinton*, 24 Iowa at 475 (Weight, J., concurring).

Municipal corporations owe their origin to, and derive their powers and rights wholly from, the legislature. It breathes into them the breath of life, without which they cannot exist. As it creates, so it may destroy. If it may destroy, it may abridge and control. Unless there is some constitutional limitation on the right, the legislature might, by a single act, if we can suppose it capable of so great a folly and so great a wrong, sweep from existence all of the municipal corporations in the State, and the corporation could not prevent it. We know of no limitation on this right so far as the corporations themselves are concerned. They are, so to phrase it, the mere tenants at will of the legislature.

Id. at 475.

the legislature.”¹⁴⁸ The ruling instituted implications for the system of federalism as well as the primary-secondary relationship between states and local governments.

The U.S. Supreme Court solidified Dillon’s Rule as binding precedent.¹⁴⁹ In *Hunter v. City of Pittsburgh*,¹⁵⁰ the Pennsylvania state legislature directed the consolidation of the cities of Pittsburgh and Allegheny, despite opposition by the smaller to the merger.¹⁵¹ The City of Allegheny brought an action based on a violation of U.S. Constitutional rights, referring to the extent of state legislature control over local governments and due process.¹⁵² The Court held that “municipal corporations are political subdivisions of the state,” created for the purposes of such governmental powers conferred upon them.¹⁵³ The “number, nature, and duration” of local governments are solely at the discretion of the state, permitting the state to direct or withdraw any powers unconditionally and without consent.¹⁵⁴ The city charter is a power bestowed by the state legislature, which may be granted or destroyed without any contractual standing or obligation,¹⁵⁵ and no such provision in the U.S. Constitution limits the discretionary control of the states or preserves any rights to the contrary for local governments.¹⁵⁶

The scope of Dillon’s Rule encompasses all varieties of local government actions, including ordinances that delegate powers to the CAO position.¹⁵⁷ In *Pearson v. Washington*,¹⁵⁸ the city council created a city administrator position by ordinance stated in part: that the city administrator “shall supervise the enforcement of the laws of the city,” have hiring authority over all city employees, and advise the council and municipal boards.¹⁵⁹ The court held that the ordinance was invalid by state statute, which designated a third-class category and was subject to the statutory definition of structural arrangement by the mayor-council form of government.¹⁶⁰ The court stated that the ordinance attempted to delegate powers to a city administrator that were conferred by state statute to the mayor and city council.¹⁶¹

The city charter is a state-controlled device, the creation and operation of which is subject to state statute including the power to extend

148. *Id.* at 476.

149. *Hunter v. City of Pittsburgh*, 207 U.S. 161, 178–79 (1907).

150. 207 U.S. 161.

151. *Hunter*, 207 at 174–75.

152. *Id.* at 176–77.

153. *Id.* at 178.

154. *Id.* at 178–79.

155. *Id.*

156. *Id.* at 179.

157. *See Pearson v. Washington*, 439 S.W.2d 756 (Mo. 1969).

158. 439 S.W.2d 756 (Mo. 1969).

159. *Pearson*, 439 S.W.2d at 761–62.

160. *Id.* at 761–62.

161. *Id.* at 762.

or terminate the city administrator position by contract.¹⁶² In *City of Stockbridge v. Stuart*,¹⁶³ the city council adopted an ordinance for the position of city administrator and subsequently authorized a contract extension without the approval of the mayor.¹⁶⁴ The city charter specified that the city administrator would serve at the will of the mayor and city council, and the employment contract of the city administrator allowed for termination based upon the discretion of the council.¹⁶⁵ The court held that an employment contract cannot be paramount to the city charter because it represents a state-conferred power by law that is ultimately binding on all subsequent matters barring any additional authority for amendment by ordinance or by another legal instrument granted by the state legislature, simply put “what cannot be done by an ordinance cannot be done by a contract.”¹⁶⁶

The city charter equally serves as a restrictive device on the duties and responsibilities for the city administrator position.¹⁶⁷ In *Gay v. City of Somerville*,¹⁶⁸ the city administrator attempted to act unilaterally in the termination of the chief of police, an action that the city council later approved.¹⁶⁹ According to the charter, the city administrator had the power to hire and dismiss all city employees, while reserving the authority to appoint and dismiss city officers for the council.¹⁷⁰ The court held that, although some statutory provisions afforded deference to localities in the interpretation of regulations, the assertion of power by the city administrator in attempting to terminate a city officer was an incompatible application of the state authority granted by the charter.

Consistent with *Hunter*,¹⁷¹ the state possesses all authority in granting powers to local governments and reserves no legal challenge.¹⁷² In *Figuly v. City of Douglas*,¹⁷³ the city council terminated the city administrator’s employment pursuant to the power vested in the council by the city charter.¹⁷⁴ The city administrator brought a wrongful termination suit, including the violation of due process rights under the U.S. Constitution.¹⁷⁵ The court held that the council acted properly within the scope of charter authority, which specified that the city administrator serves at the will of the mayor and city council,

162. *City of Stockbridge v. Stuart*, 329 Ga. App. 323 (2014).

163. 329 Ga. App. 323 (2014).

164. *City of Stockbridge*, 329 Ga. App. at 323–24.

165. *Id.* at 324.

166. *Id.* at 327.

167. *Gay v. City of Somerville*, 878 S.W.2d 124 (Tenn. Ct. App. 1994).

168. 878 S.W.2d 124 (Tenn. Ct. App. 1994).

169. *Gay*, 878 S.W.2d at 125.

170. *Id.* at 126.

171. 207 U.S. 161.

172. *Figuly v. City of Douglas*, 853 F. Supp. 381 (D. Wyo. 1994).

173. 853 F. Supp. 381 (D. Wyo. 1994).

174. *Figuly*, 853 F. Supp. at 382–83.

175. *Id.* at 383.

while the council retains the right to void all employment contracts.¹⁷⁶ The court further affirmed that, while due process protects property interests in employment, the legal legitimacy of the council's action precluded any interest maintained by the city administrator, deferring to the absoluteness of the state in matters of local government and thus supplanting any assertion of constitutional rights.¹⁷⁷

2. Home Rule

Home rule statutes or constitutional amendments provide a degree of autonomy over those affairs that are centrally local in nature, which may include a change in the form of local government.¹⁷⁸ In *Hile v. City of Cleveland*,¹⁷⁹ an amendment to the home rule charter changed the form of local government to the city manager plan.¹⁸⁰ The amendment faced a legal challenge on the basis that it conflicted with state statutes delineating the general municipal code.¹⁸¹ The court held that actions undertaken by a municipality operating under the state's home rule charter, such as a change in form of government, are within the scope of local affairs and self-government, not the general code, as the form of government applies only to that municipality.¹⁸² In other words, the purpose of home rule is to allow discretion in areas of local affairs, unless such actions directly contradict any general legislation put forth by the state deemed applicable to all localities and therefore subject to the authority of Dillon's Rule.¹⁸³

In *Mollner v. City of Omaha*,¹⁸⁴ a similar case of home rule authority, the adoption of a new city charter raised concerns about the extent of legislative power reserved for the city council.¹⁸⁵ The question of law on appeal pertained to the adoption of a new home rule charter and the council's ability to enact new ordinances that may be in contradiction to the previous charter.¹⁸⁶ The court held that the ordinance, dealing with municipal personnel rules, did not conflict with the charter provisions for legislative autonomy as imparted to the council through the newly adopted home rule charter as a granting state law.¹⁸⁷ The court referred to legal precedent that the home rule charter controls municipal affairs of local concern, noting form of local government, regardless

176. *Id.* at 387.

177. *Id.* at 389.

178. *Hile v. City of Cleveland*, 107 Ohio St. 144 (1923).

179. 107 Ohio St. 144 (1923).

180. *Hile*, 107 Ohio St. at 145.

181. *Id.* at 146.

182. *Id.* at 148–50.

183. *See Nat'l League of Cities*, *supra* note 47, at 11–12.

184. 98 N.W.2d 33 (1959).

185. *Mollner v. City of Omaha*, 98 N.W.2d 33 (Neb. 1959).

186. *Mollner*, 98 N.W.2d at 35–36.

187. *Id.* at 45–49.

of other statutory conditions by the legislature as long as such adoptions are consistent with home rule authorities as prescribed by the state constitution.¹⁸⁸

While home rule may allow an extended amount of control over local affairs, the state maintains discretion in the creation of provisions and the expansiveness of local authority.¹⁸⁹ In *Blackwell v. City Council for Seat Pleasant*,¹⁹⁰ the city council attempted to pass an amendment to the city charter, a power granted through the state's home rule, to change the form of government by establishing a CAO position.¹⁹¹ However, the city council failed to follow exact legal procedure for the approval of the resolution that required the ratification of the amendment by popular vote.¹⁹² The court held that, because the city council misled the public by notice stating that the amendment had already become effective, the council's resolution was void.¹⁹³ While the court agreed that, under home rule provisions, exact compliance is not always mandatory based on statutory interpretation, substantial compliance is needed in situations directly conflicting with state statute, such as instances requiring a vote by the electorate.¹⁹⁴

Comparably, when a city council enacts resolutions to modify the configuration of the local government in accordance with state home rule statutes, the city is within legal capacity and accordingly protected by Dillon's Rule for related challenges of litigation.¹⁹⁵ In *Baines v. Masiello*,¹⁹⁶ the city council voted to reduce the number of council seats, which was permitted by home rule.¹⁹⁷ A complaint alleged, among other concerns, that the city's actions were in violation of state laws and due process under the U.S. Constitution.¹⁹⁸ The court granted summary judgment for the city, stating that the New York Municipal Home Rule law provides that the city may pursue modifications to the membership or composition of the council, thus making the resolution legally binding and statutorily authentic.¹⁹⁹ Regarding the due process claims, the court held that home rule represents a legal area of the state's interest established by Dillon's Rule, supplying no further avenues for constitutional challenges in such matters.²⁰⁰

188. *Id.* at 36–37.

189. *Blackwell v. City Council for Seat Pleasant*, 94 Md. App. 393 (1993).

190. 94 Md. App. 393 (1993).

191. *Blackwell*, 94 Md. App. at 395.

192. *Id.* at 396.

193. *Id.* at 406.

194. *Id.* at 405.

195. *Baines v. Masiello*, 288 F. Supp. 2d 376 (W.D.N.Y. 2003).

196. 288 F. Supp. 2d 376 (W.D.N.Y. 2003).

197. *Baines*, 288 F. Supp. 2d at 381.

198. *Id.* at 382.

199. *Id.* at 396.

200. *Id.* at 396–97.

Moreover, the absence of limitations prescribed in home rule statutes may afford municipalities greater latitude in local resolutions relating to form of government.²⁰¹ In *State ex rel. Haynes v. Bonem*,²⁰² a city with a home rule charter pursued a modification to its structure of government, passing a resolution to reduce the number of city council seats, altering the commission form of government designated by statutory classification.²⁰³ The court held that the city had the power to alter its form because the purpose of home rule is to allow maximized self-control for matters of local concern and because the state's home rule statute did not expressly prohibit such actions,²⁰⁴ with the intent of the law to enable the conduct of local affairs "to the fullest possible extent" and reduce the necessity of further legislative directives from the state.²⁰⁵ The court concluded that home rule municipalities do not need to consult state legislation for the granting of powers but rather only to determine if limitations exist by general statutes that dictate a statewide application, noting that the home rule amendment expressed that "the charter may provide for any system or form of government that may be deemed expedient or beneficial."²⁰⁶

The categorization of states demonstrates the wide variation of CAO statutes and interpretations, even among states of similar type and legal character. The directives of law connote the nature of the relationship between the state and local governments and the degree of adherence to standardization for municipal structures and operations. More meticulous outlays provided by the state legislature and courts offer a better developed template for cities to utilize the city administrator form but do not necessarily hinder or alter its practice. This suggests a more internalized disposition that is comparable with state political and administrative norms, which calls into question the efficacy and desirability of legal standardization.

IV. DISCUSSION AND IMPLICATIONS

A. ANALYSIS OF LEGAL FRAMEWORKS

From our analysis, two primary legal frameworks, displayed in Table 2, emerge as influential in the implementation of the city administrator form: statutory definitions of government structure and the extent of conferred local autonomy. Within the state context, legal applications vary. Type I and II states indicate developed statutory

201. *State ex rel. Haynes v. Bonem*, 114 N.M. 627 (1992).

202. 114 N.M. 627 (1992).

203. *State ex rel. Haynes*, 114 N.M. at 628–29.

204. *Id.* at 628.

205. *Id.* at 631.

206. *Id.* at 634.

foundations for chief administrative officer (CAO) government and judicial latitude in local affairs, with Type III states being less precise in these features. While Type I, II, and III states reveal relatively consistent application of federal and state legal frameworks, Type IV states considerably lack definitive legal sources for the city administrator position. Whereas home rule statutes may give broader authority in local affairs, Dillon's Rule still persuades state-local relations. Consequently, legal specificity for local discretion remains inherently regulated by state legislatures and courts. Of note, the states represented in each category (Type I–IV) display limited regional or political (majority Democrat/Republican) similarities, suggesting that such legal procedures and characteristics for local government management may be more attuned to unique intrastate preferences, peculiarities, and dynamics of political culture,²⁰⁷ which has likewise been observed in other specialized program areas and public policy.²⁰⁸

Table 2: Legal Frameworks for the City Administrator Form of Local Government

	Legal Frameworks	
	<i>Statutes and Amendments</i>	<i>Judicial Interpretations</i>
Federal	<ul style="list-style-type: none"> • No U.S. Constitutional provision for local governments • Ninth and Tenth Amendments reserve power to states 	<ul style="list-style-type: none"> • Dillon's Rule upheld by U.S. Supreme Court • No Constitutional recourse of cities to Dillon's Rule
State	<ul style="list-style-type: none"> • City administrator in home rule still subject to state law • Statute definitions of city administrator not consistent • States not consistent for form of government under home rule • Extent of city home rule powers generally undefined 	<ul style="list-style-type: none"> • City administrator position must be consistent with charter • Home rule charter must be consistent with state law • Form of government may be a local affair under home rule • State law may still preempt home rule
Local	<ul style="list-style-type: none"> • City administrator position may be created by city ordinance • Cities may change form of government by charter 	<ul style="list-style-type: none"> • City administrator ordinances are subject to state law • City classifications by state law define powers

207. See ELAZAR, *supra* note 70.

208. See generally BOWMAN & KEARNEY, *supra* note 26, at 330–57 (presenting a range of policy areas that indicate unique state influences and differences, including urban policy, taxation and finance, economic development and growth, education, criminal justice, welfare and social policy, healthcare, and environmental).

Our findings offer support for the revising of model city charters to further demarcate the CAO position.²⁰⁹ As the forms of local government have become less dichotomous,²¹⁰ the mandates of state-organized charters may add to the legal complexity of home rule for structural operations. This framework may be the most legally problematic, as often neither the states nor the courts clearly define the extent of home rule powers, leaving cities to attempt a trial-and-error approach to determine legal boundaries.²¹¹ This similarly contributes to complications in the design of a model ordinance for the city administrator form. Undoubtedly, state statutory variations almost entirely preclude the possibility of constructing an ordinance for universal use. Yet, as previous research demonstrates, procuring a model ordinance even for a single state may be legally unworkable.²¹² As shown in Nebraska, this may be more symptomatic of the internalized expectations for city governance and the nature of state-local relations manifested through political culture and administrative institutions.

B. NEBRASKA MODEL ORDINANCE: A CASE STUDY²¹³

From the analysis, Nebraska was identified as a Type I state that exhibits characteristics amenable to city administrator government. Nebraska is a midwestern state with a population of approximately two million people, most of which reside in the largest urban metropolitan areas of Omaha and Lincoln on the southeastern side geographically. However, Nebraska contains over 500 total municipalities, the vast majority of which have a population below 10,000 residents.²¹⁴ Legal classifications set forth by the state legislature designate city classes by size, which correspond with controlling state laws specific to operation and management. With the exceptions of Omaha (metropolitan class) and Lincoln (primary class), all other municipalities fit within designations of the first class (population over 5,000) that contains

209. See James Svava, *Revising the Model City Charter: A Case for Change*, 109 NAT'L CIVIC REV. (2020), <https://www.nationalcivicleague.org/ncr-article/revising-the-model-city-charter-the-case-for-change/>.

210. FREDERICKSON ET AL., *supra* note 2, at 161–67.

211. See, e.g., ROBERT BLAIR & DALE KRANE, NEB. COMM'N ON LOC. GOV'T INNOVATION AND RESTRUCTURING, NEBRASKA HOME RULE STUDY PHASE I: THE PRACTICE OF HOME RULE 18–21 (Feb. 1999).

212. See BLAIR & KRANE, *supra* note 36; Rex, *supra* note 12.

213. Christian L. Janousek, Robert Blair, & Jerome Deichert, *Nebraska Local Government: A Reflection of its Political Culture*, in NEBRASKA GOVERNMENT AND POLITICS 156–73 (Robert Blair, Christian L. Janousek, & Jerome Deichert eds., 2d ed. 2025). The case study incorporates research conducted over a 10-year period on Nebraska institutions and government, which includes additional observations by the authors. The League of Neb. Muns. provided supplemental research and corroborating information.

214. *Id.* at 158–59.

thirty-one cities, the second class (population over 800) that contains 117 cities, and 381 villages (population over 100).²¹⁵

Under home rule, established in 1912, charters may be adopted by municipalities of more than 5,000 population,²¹⁶ with little clarity in the extent of autonomy.²¹⁷ Presently, only Omaha and Lincoln maintain true home rule charters, while all others remain subject to a strict adherence of Dillon's Rule consistently emphasized and upheld by the Nebraska Supreme Court.²¹⁸ The legal distinction between municipal and state affairs is the ultimate determinant of home rule jurisdiction.²¹⁹ Over time the court has deferred the position of arbiter in this regard, instead referring to the state legislature to codify such directives in statute for specification, which effectively undermines the overall intent of home rule.²²⁰

Yet, the more dominant presence of Dillon's Rule does not appear to deter the espousal of professional local management. Nearly every first- and second-class city in Nebraska has some type of CAO position, which may be attributed to several factors. Historically, the political culture of Nebraska indicates a strong inclination for localized governance, represented by the extraordinary number of subdivisive governments throughout the state, including counties, special districts, and public power utilities.²²¹ This individualistic culture is also more conducive to business-like operations in government with high expectations of accountability and efficiency.²²² Nebraska displays an extensive professional support network for local government administrators, which is likewise reflected in the high ICMA recognition and membership rates among municipalities and CAOs. The Nebraska City/County Management Association (NCMA), the state affiliate of ICMA, operates in conjunction with the League of Nebraska Municipalities (LNM), both of which provide professional development and advocacy for CAOs and cities. The exposition and utilization of local government practitioner associations in a state reinforces the

215. CLERK OF THE LEG., NEB. LEG., 2024–25 NEBRASKA BLUE BOOK 794 (2024), https://nebraskalegislature.gov/pdf/bluebook/bluebook_2024.pdf.

216. NEB. CONST. art. XI, § 2.

217. BLAIR & KRANE, *supra* note 36.

218. BLAIR & KRANE, *supra* note 211, at 18–19. A preemptory decision on municipal creation by the Neb. Sup. Ct. (*Redell v. Moores*, 63 Neb. 219, 88 N.W. 243 [1901]) emphasized language from Dillon's Rule concerning the authority of the state over municipalities, holding that “there can be no such thing as an inherent right of local self-government.” See Janousek et al., *supra* note 213, at 159, 168.

219. See *Consumers Coal Co. v. City of Lincoln*, 109 Neb. 51, 189 N.W. 643 (1922).

220. BLAIR & KRANE, *supra* note 211, at 21.

221. See U.S. Census Bureau, *supra* note 64, at 189–94. Nebraska has over 2,500 units of local government, which, per capita, puts Nebraska in the top five states nationally for number of local governments.

222. ELAZAR, *supra* note 70, at 230–32, 241–44.

standardization of professionalism in city management and conveys a predilection for administrative convention and competence. Expressly, LNM offers resources and guidance for municipalities in legal creation and navigation of the city administrator form.

By state statute, first- and second-class cities of the mayor-council form (the default charter for these classifications) can establish a CAO position by municipal ordinance. The strong-mayor structure for first-class cities gives more latitude and authority for the elected mayor in the selection and appointment of officers, requiring only council approval and adoption of the controlling ordinance.²²³ Second-class cities function as a weak-mayor system, in which the mayor may appoint officers in conjunction and with consent of the city council.²²⁴ While ordinances vary slightly, city administrators in both class structures operate under the mayor and council, although first-class mayors possess statutory oversight of officers. Another important divergence is for the removal of the city administrator, which necessitates council approval in first-class cities but allows second-class mayors to act unilaterally. Nebraska statutes do not provide guidelines for the CAO form or duties assigned to the position, which is deferred to city ordinance, as opposed to the enumerated designations outlined for the council-manager structure.²²⁵ A village board may appoint administrative officers as well,²²⁶ though this is far less common due to the nominal municipal operations and low monetary resources of villages.

Nebraska judicial interpretations signal the effects of legal classifications and Dillon's Rule over municipal structures and procedure. In *State ex rel. Warren v. Kleman*,²²⁷ an action was brought against the City of Beatrice regarding a petition for referendum on a proposed ordinance that would authorize the city to create parking facilities for public use.²²⁸ The mayor and city council adopted the ordinance without submitting it to the voters as a ballot measure.²²⁹ An issue in the case was the legal authority of the council to act unilaterally, with the petitioners arguing that state laws governing the provision of referendums compelled all first-class cities.²³⁰ The court held that, as a city of the first class with a mayor-council form of government, the council

223. NEB. REV. STAT. §§ 16-308, 16-312.

224. NEB. REV. STAT. § 17-107.

225. NEB. REV. STAT. §§ 19-601, 19-662.

226. NEB. REV. STAT. § 17-208.

227. 134 N.W.2d 254 (1965).

228. *State ex rel. Warren v. Kleman*, 134 N.W.2d 254, 255-57 (1965).

229. *State ex rel. Warren*, 134 N.W.2d at 256.

230. *Id.* at 256.

was only bound by state legislation for that exact structure, which does not include other statutes for first-class cities with commission or council-manager forms of government.²³¹

Furthermore, the state legal classification of cities dictates the authorities of elected officials under the city administrator structure. In *Gillis v. City of Madison*,²³² the city administrator challenged the authorization of the mayor to terminate his employment, namely asserting that the ordinance adopted by the city, which required a majority vote by the city council, superseded state law.²³³ The court held that, while the ordinance and statute can coexist as alternative methods for termination, in instances of conflict the state statute is superior.²³⁴ Madison is classified as a second-class city with the city administrator form, for which state statute permits the mayor to remove the city administrator for any cause and without a council vote. Although the ordinance was legally valid, the termination was justified as a matter of state law.²³⁵

The prevalence of city administrators in Nebraska prompted LNM to assess the potential for a model ordinance.²³⁶ LNM offers ordinances of select first-class cities of varying population and geographic location that have sustained legal scrutiny, which include descriptions of appointment, duties and powers, relations with elected officials, qualifications, compensation, and removal.²³⁷ In its capacity, LNM acts as an intermediary between cities and the state legislature, assisting municipalities in pursuits for professional management in congruence with state law and advocating for legal changes. However, due to the variance of state statutes within the legal classifications of cities and the Dillon's Rule doctrine of the state courts, the ability to compose a model ordinance for the city administrator structure capable of general application within Nebraska is ostensibly impracticable.

Nebraska as a case study shows the overarching complexity of legal frameworks for the city administrator form. Although a home rule state, localities are inevitably left to explore the legal confines of

231. *Id.* at 258.

232. 540 N.W.2d 114 (1995).

233. *Gillis v. City of Madison*, 540 N.W.2d 114, 115–17 (1995).

234. *Gillis*, 540 N.W.2d at 117.

235. *Id.* at 117.

236. *See* Rex, *supra* note 12.

237. *Id.* First-class city ordinances for the city administrator structure include the cities of Beatrice, Bellevue, Blair, Columbus, Crete, Fremont, Gering, Grand Island, Hastings, Holdrege, La Vista, Nebraska City, Norfolk, North Platte, Papillion, Plattsmouth, Schuyler, Seward, South Sioux City, Wayne, and York.

permitted self-government.²³⁸ Most all Nebraska localities decline this option while still pursuing forms of professional management, suggesting the predominant impression of Dillon's Rule and the subjective nature of structural configurations for the CAO position within state statutes, municipal classifications, and judicial interpretations.²³⁹ In practice, the absence of true home rule does not stifle the utilization of city administrators in Nebraska, but the lack of specificity in controlling state legislation allows for a broader application through local ordinances that contributes to an array of legal variability. These issues of uniformity in function are illustrative of the larger legal obfuscations across all fifty states. Without exact statutory conditions for arrangement and operation, the potential for legal standardization among states, even internally, remains inadequate, which may be even more illuminating of the legal complexities for the city administrator form itself.²⁴⁰ As in Nebraska, individual municipalities may be more inclined to customize governance structures that best meet the needs of their communities, which presumably fortifies the appeal and underlying intentions of professional reform and adaptation over the last century and moving forward.

V. CONCLUSION

Overall, state statutes for the city administrator form are sporadic and diverse, with most states offering incomplete legal standards outside of the propagated mayor-council and council-manager structures. The presence of legal guidelines for the chief administrative officer (CAO) position, or lack thereof, appears to play a role in use and implementation.²⁴¹ In addition, the deficiency of a statutory foundation may impede other legal frameworks. Purely home rule states are scarce, and Dillon's Rule and preemption may nullify municipal control within affairs that are not specifically outlined by state statute, which may refrain cities from pursuing CAO ordinances and charters. State classifications regulate municipal actions and, without statutory permission for selecting form of government, consolidate power with the state legislature.

What is more, judicial interpretations produce mixed results. While Dillon's Rule and home rule propose two dialectic ends of a legal continuum, the reality is that these constructs overlap, creating several layers of intricacy for municipalities in the command of local affairs. Whereas such complication is inherent in a federal system,

238. See Reynolds, *supra* note 55, at 996–98.

239. See Janousek et al., *supra* note 213, at 158–62.

240. See FREDERICKSON ET AL., *supra* note 2, at 167–74.

241. See Int'l City/Cty. Mgmt. Ass'n, *supra* note 91.

the ability of states to enact more equivalent and unambiguous home rule statutes may help to clarify the uncertainties for a useful model charter and CAO ordinance. In sum, cities hoping to attain such structural changes operate within a complex intergovernmental labyrinth of state oversight and legal directives. While the city administrator form continues to remain a viable option for professional local government management, the legal frameworks among states offer, at best, little consistency.

