

The State

Pope: Solid-waste bill threatens local control, fiscal integrity

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By Margaret C. Pope — [Guest Columnist](#)

Columbia, SC — On March 7, 1973, the Home Rule amendments to the state constitution became effective, and local government devolved from the State House to the county seats and town halls. Thus, the primary functions of government became local again.

The journey toward Home Rule after the deliberate contraction of local power in the 1895 constitution reflected our evolution as a state and the maturing of our political system. It also reflected the common-sense proposition that decisions related to local services should be made at the local level.

Also during the 1970s, solid-waste disposal became a hot topic nationally, and the question of what to do with all of it eventually reached the State House. The problem was that dealing with solid waste was going to be very expensive, and not dealing with it would exact great cost to the public health. After many years and much debate, the General Assembly passed the Solid Waste Policy and Management Act of 1991, and determined that county governments should be responsible for addressing the expense and health issues associated with solid waste. The law also set forth a number of provisions and suggestions for how they should go about it.

The counties dutifully responded by constructing landfills, assembling fleets of garbage trucks and entering into regional governmental compacts to achieve economies of scale. In many cases, counties engaged private waste haulers to perform these tasks under a franchise agreement; in others they fended for themselves, often with coalitions of counties issuing bonds to provide the necessary capital. Regardless of the approach, the ultimate responsibility under the law fell to the counties, and the ongoing capital and operational costs associated with this responsibility was and is substantial.

The implicit legal underpinning to this entire regime rests on the ability of counties, pursuant to their Home Rule powers, to control the flow of solid waste within their borders. By ensuring a sufficient flow of solid waste to a county-provided or county-licensed facility, a county can rest assured that its capital costs will be recovered and that the costs to the public will be kept reasonable. This so-called flow-control power has been upheld by the S.C. Supreme Court as a valid exercise of county Home Rule powers.

Currently pending in the state Senate is H.3290, already passed in the House, which upsets the balance struck between the General Assembly and local government back in 1973. The “Business Freedom to Choose Act” amends the waste-management act to eliminate the Home Rule power of counties to control the flow of solid waste within their borders.

This will endanger the revenue streams supporting county solid-waste facilities — facilities constructed with public money on the basis of an understanding with the General Assembly. This understanding also formed the basis of the understanding between counties and the bond holders who purchased solid-waste revenue-supported bonds. The legislation, if adopted, removes the basis of that bargain and places county finances at risk.

At a time when local government bonds and obligations are under the microscope due to events in Detroit, Jefferson County, Alabama and various cities in California, our Legislature should carefully consider the effects of its actions before causing a self-induced injury to local finances. H.3290 undermines Home Rule, displays political indifference to meeting obligations and should not be enacted into law.

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<http://www.thestate.com/2013/11/03/3072094/pope-solid-waste-bill-threatens.html>

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