
Coates' Canons Blog: Municipal and County Service Districts

By Kara Millonzi

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The General Assembly recently enacted **S.L. 2011-72**, which authorizes certain municipalities to establish one or more municipal service districts to fund costs related to the conversion of private residential streets to public streets, subject to several prerequisites and restrictions. The new Act has limited applicability—it only applies to cities located primarily in a county that has a population of 750,000 or more and also located in an adjacent county with a population of 250,000 or more and to cities located primarily in a county that has a population of 250,000 or more and also located in an adjacent county that has a population of 750,000 or more. For that reason, I will not focus on its specific provisions. (Bonus points if you can guess the cities, though.)

The Act, however, provides a good catalyst for a broader discussion of municipal and county service districts. This post seeks to answer such vexing questions as what is a service district, how and for what purposes can it be established, and are there any restrictions on its use.

What is a service district?

A service district is a defined area within a municipality or county in which the unit's governing board levies an additional property tax in order to provide extra services to the residents or properties in the district. A service district is not a separate government. It is simply a mechanism whereby a local government may raise money to pay for services or projects from those property owners that most directly benefit from the services or projects.

The state constitution generally requires that a municipality's or county's property tax rate be uniform throughout the unit. See **N.C. Const. art. V, sect. 2(2)**. That means that all taxable property within a local government (as determined by the NC Constitution and the General Assembly) must be taxed at the same rate or rates. The constitution carves out an exception to this requirement, though, authorizing the General Assembly to permit municipalities and counties to define special service districts within their borders and to levy additional taxes in those areas to provide services or facilities that are not offered throughout the unit or that are offered at a lower level in the rest of the unit. See **N.C. Const. art V, sect. 2(4)**.

Pursuant to this constitutional provision, the General Assembly has enacted the Municipal Service District Act (**G.S. Ch. 160A, Art. 23**) and the County Service District Act (**G.S. Ch. 153A, Art. 16, Part 1**). These statutes authorize municipalities and counties, respectively, to define a part of the municipality or county as a service district, to levy a property tax in the district additional to the county-wide or municipal-wide property tax, and to use the proceeds to fund certain projects or services in the district.

For What Purposes May a Service District be Established?

Under general law, a municipality may define one or more service districts for any of the following functions:

- Beach erosion control and flood and hurricane protection works
- Downtown revitalization projects
- Urban revitalization projects
- Transit-oriented development projects
- Drainage projects
- Sewage collection and disposal systems
- Off-street parking facilities

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- Watershed improvement, drainage, and water resources development projects

(There are a few additional authorized purposes for certain municipalities. See **G.S. 160A-536**.) The most common municipal service districts are established for downtown revitalization. These districts are commonly referred to as business improvement districts or BIDs. Establishing a BID allows a municipality to levy an additional property tax on real and personal properties within its central downtown area to fund a variety of downtown projects and services, such as street and sidewalk improvements, promotional and marketing efforts, increased security, additional trash collection, and building façade improvements. (For more information on BIDs in North Carolina click [here](#).)

And a county may establish one or more service districts for any of the following purposes:

- Beach erosion control and flood and hurricane protection works
- Fire protection
- Recreation
- Sewage collection and disposal
- Solid waste collection and disposal
- Water supply and distribution
- Ambulance and rescue services
- Watershed improvement, drainage, and water resources development
- Cemeteries

(There are a few additional authorized purposes for certain counties. See **G.S. 153A-301**.) Counties typically establish service districts to provide fire protection and ambulance and rescue services. (A county service district is one of two types of tax districts that may be used to fund fire and rescue services. For more information on fire tax districts click [here](#).)

How Is a Service District Established?

A local government's governing board may establish a service district by following a few, relatively straight-forward procedural requirements.

1. Prepare a report on the proposed district containing the following: (Note that staff typically prepares the report per council's directive.)
 - A map of the proposed district, showing its proposed boundaries;
 - A statement attesting that the proposed district is in need of one or more of the authorized functions or services to a demonstrably greater extent than the rest of the unit and meets other required statutory standards (as discussed below, the statutory standards for establishing a service district are slightly different for counties than for municipalities); and
 - A plan for providing one or more of the authorized functions or services in the proposed district.
2. Make the report available for public inspection in the municipal or county clerk's office at least four weeks before holding a public hearing on establishing the district.
3. Publish notice that a public hearing will be held on establishing the district at least one week before the date of the hearing, and mail notice to all property owners in the proposed district at least four weeks before the date of the hearing. The notice must state the date, hour, and place of the hearing and its subject, and also must include a map of the proposed district and a statement that the report is available for public inspection in the clerk's office.
4. Hold a public hearing on establishing the district.
5. Adopt a resolution establishing the district, to take effect at the beginning of a future fiscal year.

In order to start the process to create a service district a municipal board simply must find that the proposed district is in need of one of more of the authorized functions or services "to a demonstrably greater extent" than the remainder of the municipality. **G.S. 160A-537**. A county board must make more detailed findings. Specifically, a county board may establish a service district only if determines that there is a demonstrable need for providing one or more of the authorized services

in the district; it is impossible or impracticable to provide the services on a countywide basis; it is economically feasible to provide the proposed services in the district without unreasonable or burdensome annual tax levies; and there is a demonstrable demand for the proposed services by persons residing in the proposed district. **G.S. 153A-302**. Thus, a county board likely may not create a service district to fund services or projects if there is significant opposition from citizens in the proposed district to the county providing the particular services or undertaking the particular project(s) in the district. Furthermore, municipal territory may not be included in a county service district unless the municipality's governing board adopts a resolution consenting to the inclusion.

Are there Limits on the Taxing Authority within a Service District?

Once a service district is established, the unit's governing board may levy a service district tax each fiscal year against all real and personal property located in the district that are subject to the unit's ad valorem property tax. **G.S. 160A-542** (municipalities); **G.S. 153A-307** (counties). (There is one exception—the personal property of public service corporations is exempted from municipal service district taxation. **G.S. 160A-544**.) A municipal or county board may alter the district tax rate each year, and it may choose not to levy the tax in a particular fiscal year without actually abolishing the district. (That means that the governing board could levy the district tax again in future fiscal years.)

There is no specific limit on the amount of a service district tax rate. However, a service district tax, when added to the unit's ad valorem property tax rate(s) may not exceed \$1.50 per \$100 valuation, unless the portion of the rate in excess of the limit is submitted to and approved by a majority of the qualified voters in the district.

A county board may place additional tax rate restrictions on fire districts (**G.S. 153A-309.2 & G.S. 153A-309.3**) and ambulance and rescue districts (**G.S. 153A-310**).

Once a unit levies a service district tax, it must "provide, maintain, or let contracts for the services for which the residents of the district are being taxed within a reasonable time, not to exceed one year, after the effective date of the definition of the district." **G.S. 160A-540** (municipalities); **G.S. 153A-305** (counties). Service district tax proceeds must be expended only to fund the authorized services or projects in the district. Proceeds not spent in any given fiscal year may be held in reserve for future expenditures in the district. They may not be transferred to the unit's general fund or diverted to other purposes.

Links

- www.ncga.state.nc.us/Sessions/2011/Bills/Senate/PDF/S281v4.pdf
- www.ncga.state.nc.us/Legislation/constitution/article5.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_160A/Article_23.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_153A/Article_16.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_160A/GS_160A-536.html
- canons.sog.unc.edu/?p=2146
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_153A/GS_153A-301.html
- sogpubs.unc.edu/electronicversions/pdfs/lfb43.pdf
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_160A/GS_160A-537.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_153A/GS_153A-302.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_160A/GS_160A-542.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_153A/GS_153A-307.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_160A/GS_160A-544.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_153A/GS_153A-309.2.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_153A/GS_153A-309.3.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_153A/GS_153A-310.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_160A/GS_160A-540.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_153A/GS_153A-305.html