
Coates' Canons Blog: What Is A Local Act?

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In this **blog post**, I mentioned that a local government could obtain a “local act” exempting a privately funded project from the otherwise applicable bidding requirements. This post is designed for people who may not be familiar with local acts. It answers the following questions: What is a local act? How does a local act relate to the general laws that govern local governments? What is the procedure for obtaining a local act? Is there anything that can't be done by local act? Where can I find local acts?

What is a local act?

The **North Carolina General Assembly** enacts legislation in one of two ways: Either by general law, or by local act. General laws apply, in the context of local government law, across all local governments or specific categories of local governments. Most of the sections of **Chapters 160A** (cities) and **153A** (counties) are general laws. A local act is a law that applies to one or more specific local governments. Although the name might suggest that a local act is something that is done by a local government, that's not the case. The legislative acts of local governments are ordinances. A local act refers to an act of the General Assembly that relates to one or more specific local governments.

How does a local act relate to the general laws that govern local governments?

Local governments derive all of their authority from state legislative enactments. Most of the enabling legislation comes in the form of general laws. Local acts modify the general law by adding to the authority granted under those laws, or by creating exceptions to the requirements contained in those laws. For example, last session the legislature, by local act, gave certain local governments the **authority to construct and provide affordable housing for their employees**, and authorized exemptions from **property disposal procedures for a city and a county/community college project**. Local acts can also directly validate or effect specific transactions of local governments, bypassing entirely the otherwise applicable general laws. For example, a recent local act **validates a repurchase agreement**, similar to the type I described in my last blog, notwithstanding the bidding requirements, and another directly **annexes property described in the act itself to the town of Sunset Beach**.

What is the procedure for obtaining a local act?

Local acts are introduced as bills in the legislative process much like any other piece of legislation. A local government seeking local legislation must contact the legislators who represent the jurisdiction, and the bill must be submitted to the drafting office for preparation and introduction just like any other piece of proposed legislation. Local bills are separately designated as local bills in the drafting process, and are handled under a separate calendar, but otherwise they follow the same process, being referred to committees and passed on three readings in each house. Local acts do not go to the Governor and are not subject to a veto if they affect fewer than 15 counties. **NC Const., Art II, Section 22(6)**.

There are two important differences in the process for local bills. One is a matter of tradition. By long-standing practice, a legislative “courtesy” system provides that local bills will almost always win general approval in each house as long as they have the support of the legislators who represent the jurisdiction(s) involved. Occasionally, a local bill that is controversial will face some opposition, but otherwise, the legislators defer to the local delegation on matters of concern to their local government constituents.

A second difference is a matter of house and senate rules during the “short” legislative session (the second half of the biennial legislative process, which is primarily dedicated to budget matters). The typical rules for introduction of bills during

the short session limit local bills to matters that are approved by all members of the local delegation, and that the members will certify as being noncontroversial.

In addition, during both the long and short sessions, deadlines for introduction of bills are based on separate categories of bills, including local bills. So local governments seeking local legislation must pay attention to the legislative schedule and rules, especially if the desired legislation is time sensitive.

One final point about procedures for local acts: When the legislature uses a local act to effect a particular action, it is not bound by any of the procedures in the general laws. Let me use annexation as an example. The general laws require cities to comply with several specific procedural steps when annexing property. The General Assembly, however, can annex property to a city by local act without complying with any of those procedures. The **local act for Sunset Beach** is an example of such an annexation. Since the legislature creates the rules and defines the powers under which local governments operate, they are free to modify or dispense with them, as they see fit. The only exception to that is that they must comply with any procedures or limitations that the state or federal constitutions require (such as a hearing in order to comply with due process).

Is there anything that can't be done by local act?

Well, speaking of constitutions, it turns out that the North Carolina Constitution does impose several limitations on the types of things that can be done by local act. In **Article II, Section 24**, the Constitution lists 14 specific subjects that cannot be regulated or addressed in a local act. Significant categories include health, sanitation, and abatement of nuisances, changing the names of cities, and regulation of trade. These restrictions were put in place in order to reduce the volume of local legislation. Sometimes local acts are "classified," in order to avoid a violation of these constitutional limitations. A classified act describes the affected jurisdiction(s) by characteristics, such as location or population, rather than by specifically naming them. Also, limitations in **Article V of the North Carolina Constitution**, require the legislature to use general rather than local laws for local government property tax classifications and exemptions, and for laws authorizing local government borrowing.

Where can I find local acts?

It can be challenging to assemble all of the legislation that affects and defines the authority and structure of a particular local government. While much of it, as noted earlier, is set out in the general law, many local governments are also governed by local acts adopted over a long period of time. There is no central repository of these acts for specific jurisdictions. City charters are local acts, and they contain important provisions, which may modify the general law. Some charters contain limits on the amount of the local tax rate, or provide for citizen exercise of initiative, recall, and referendum – powers that are not granted to local governments under general law. But even these charter provisions may be modified by subsequently enacted local legislation.

Here are some resources for finding local acts:

Bound session law volumes: Law libraries contain bound volumes of session laws for each legislative session, organized numerically. These volumes are indexed so that local acts can be found based on the name of the jurisdiction. There are several cumulative indexes, but even with these, it is hard to find a local act in these volumes unless you have a citation or at least an idea of the year of enactment.

Codified General Statutes: The bound volumes of the general statutes (or electronic versions available by subscription) contain notations of "local modifications" to specific statutes. This is helpful if a local act modifies a specific general statute. The notations provide the name of the local government and the citation to the session law containing the modification. Many local acts, however, do not modify specific statutes. In some cases, local acts are actually codified, that is, included in the bound and electronic volumes of the General Statutes. Once 15 or more local governments have obtained the same local legislation, the codifier of statutes will reflect the modification in the general statutes. For example, the **satellite annexation statute** lists local units that have obtained exemptions from the 10% area limitation.

General Assembly Website: The **state legislative website** includes a searchable database of session laws. You can search by jurisdiction name and/or subject matter and retrieve electronic versions of session laws starting dating back to 1959.

Gerry Cohen, Director of the Legislative Drafting Division, suggests these additional resources for researching local acts:

There is a paper compendium of city (not county) local acts through 1939, organized by city. The local acts were researched and typed out by historians working for FDR's New Deal WPA. They are in folders (one for each city) in the Supreme Court Library, with card-filed indexes in two places — the Supreme Court library and the North Carolina League of Municipalities.

There are two bound indexes, 1900-1945 (Secretary of State) and 1945-1967 (School of Government) that cover county and city local acts. These are available in the legislative library, and the School of Government library.

There is a compendium of county local acts relating to boundaries, Corbitt's "Formation of the North Carolina Counties 1663-1943", second printing with corrections 1969, which excerpts boundary descriptions and contains citations to the acts, orders, and colonial records establishing each county.

There is a compilation of local acts relating to counties: "North Carolina County Legislation Index: A Complete Listing of the Local or Special Acts Passed by the General Assembly for Each County 1669-1961", ed. by Clyde L. Ball and "North Carolina County Legislation Index: Supplement 1966" – which covers the 1963 and 1965 sessions. Both of those indices are in the Legislative Library and the School of Government Library. They contain citations only and not the texts of any acts.

See: <http://ncbilldrafting.wordpress.com/2009/09/04/do-counties-have-charters-no-and-yes>

and <http://ncbilldrafting.wordpress.com/2009/09/02/whats-a-city-charter-and-why-is-it-so-old> for some commentary on what is a charter.

Links

- www.ncga.state.nc.us/
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_160A.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_153A.html
- www.ncga.state.nc.us/enactedlegislation/sessionlaws/html/2009-2010/sl2009-154.html
- www.ncga.state.nc.us/enactedlegislation/sessionlaws/html/2009-2010/sl2009-168.html
- www.ncga.state.nc.us/enactedlegislation/sessionlaws/html/2007-2008/sl2008-73.html
- www.ncga.state.nc.us/enactedlegislation/sessionlaws/html/2007-2008/sl2007-141.html
- www.ncleg.gov/Laws/Constitution/Article2
- www.ncleg.gov/Laws/Constitution/Article5
- www.ncga.state.nc.us/enactedlegislation/statutes/html/bysection/chapter_160a/ga_160a-58.1.html
- www.ncga.state.nc.us/gascripts/EnactedLegislation/ELTOC.pl?sType=Law
- ncbilldrafting.wordpress.com/2009/09/04/do-counties-have-charters-no-and-yes
- ncbilldrafting.wordpress.com/2009/09/02/whats-a-city-charter-and-why-is-it-so-old