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Local Government and Local Finance

This chapter primarily discusses acts of interest to local governments that are not addressed in other chapters of *North Carolina Legislation 2005*. Local officials interested in particular topics should also consult Chapter 20, “Public Records”; Chapter 19, “Public Purchasing and Contracting”; Chapter 5, “Community Planning, Land Development, and Related Topics”; Chapter 15, “Local Taxes and Tax Collection”; Chapter 18, “Public Employment”; Chapter 8, “Economic and Community Development”; Chapter 11, “Environment and Natural Resources”; Chapter 9, “Elections”; Chapter 10, “Elementary and Secondary Education”; Chapter 12, “Health”; Chapter 16, “Mental Health”; Chapter 22, “Senior Citizens”; Chapter 23, “Social Services”; Chapter 7, “Criminal Law and Procedure”; and Chapter 17, “Motor Vehicles.”

Local Government

Local Government Structures and Procedures

Public comment period requirements. In response to citizen complaints about the unwillingness of certain local boards to hear their comments, the General Assembly enacted S.L. 2005-170 (H 635), mandating that city councils, boards of county commissioners, and boards of education provide at least one period for public comment per month at a regular meeting of the board. The history of the act and case law on citizen comment periods as “limited public forums” under the First Amendment suggest that the board probably must allow comment on any subject that is within the jurisdiction of the local government. A board need not provide a public comment period if no regular meeting is held during the month.

The act allows boards to adopt reasonable rules governing the conduct of the public comment period, including but not limited to rules setting time limits for speakers and rules providing for (1) the designation of persons to speak for groups supporting or opposing the same position, (2) the selection of delegates from groups with the same position when the meeting hall's capacity is exceeded, and (3) the maintenance of order and decorum in the conduct of the hearing. This authorization of regulations is taken almost verbatim from the statutes governing the conduct of public hearings by counties and municipalities, G.S. 153A-52 and G.S. 160A-81, respectively.

Exercise of municipal functions by certain counties. S.L. 2005-35 (H 399), as amended by Section 10 of S.L. 2005-433 (H 787), authorizes a new form of local government for North Carolina: a county with municipal powers. Specifically, the act allows for the creation of a single, comprehensive local government for a county (1) having no incorporated municipalities or (2) having only one incorporated municipality, which has less than 100 acres in the county and is located primarily in another county. Creation of the unified government must be approved by the qualified voters of the county in a referendum called by the board of county commissioners. The rules governing this new type of entity are set out in new Article 24, Unified Government, in G.S. Chapter 153A, which contains the general county laws for North Carolina. The original bill was proposed primarily for Currituck County, a rapidly growing area along the coast and sounds in northeastern North Carolina, but the act also applies to two other eastern counties, Hyde and Camden. Currituck and Hyde counties have no incorporated municipalities or parts thereof within their boundaries, while Camden County falls under the second authorization.

If the voters approve the unified county government, the county is vested with all of the powers, duties, functions, rights, privileges, and immunities of a city, with certain limitations. In particular, the county may not exercise any of its city powers outside the county or within the portion of the municipality within the county, and it may not annex territory to the county. In addition, the statutes governing forms of government, administrative offices, and law enforcement for cities do not apply to the unified county, and the prohibition on zoning of bona fide farms by counties remains in force. The statutes governing municipal elections do not apply to any county covered by Article 24, except to the extent that they already did without the new law.

A county subject to the second authorization (Camden County) may not levy property taxes on the *entire county* for any function authorized by Article 24 but not otherwise authorized by the law for counties. Instead, any such Article 24 service (for example, road construction and maintenance) must be financed by means of a property tax levied within a service district consisting of the entire area of the county not within an incorporated municipality. In establishing such a countywide service district, the county is subject, under new G.S. 153A-302(e), to special, more limited requirements concerning findings and notice than is the case for other service districts.

S.L. 2005-35 provides that a unified county is to be treated much like a city whenever the Joint Legislative Commission on Municipal Incorporations makes a recommendation to the General Assembly concerning a proposed incorporation that might affect the county. Specifically, the act amends G.S. 120-169 and G.S. 120-166, respectively, to prohibit the commission from making a positive recommendation on incorporating a new town if any part of the proposed municipality is included within the boundaries of a unified county, or if the proposed municipality lies outside but within certain distances of the county. These provisions will likely make it difficult politically for the residents of a particular area within a unified county to obtain legislative approval to incorporate as a municipality.

The county commissioners in a unified county may by ordinance provide that Article 24 does not confer particular municipal powers, duties, and the like on the county. If the board of commissioners exercises any responsibilities authorized under both the county law and the municipal law (G.S. Chapter 160A), and those statutes conflict, the board must state in its minutes the chapter under which it is acting.

Boundary changes between adjacent service districts. S.L. 2005-136 (S 396) enacts G.S. 153A-304.3, which authorizes a board of county commissioners to adopt a resolution relocating the boundary lines between adjoining county service districts created pursuant to G.S. Chapter 153A, Article 16, if the districts were established for substantially similar purposes.

The boundary lines may be changed in accordance with a petition from landowners or in any manner the board considers appropriate. On receipt of a request to change service district boundaries, the board must prepare a report containing specified information about the change and hold a public hearing, with published notice, on the proposal before taking action. The resolution changing the districts' boundaries is to take effect at the beginning of a fiscal year commencing after the passage of the resolution, as determined by the board.

Civil liability of regional public transportation authority. S.L. 2005-160 (H 1503) enacts new G.S. 160A-627, specifying that a regional public transportation authority established pursuant to G.S. Chapter 160A, Article 26, is deemed to be a city for purposes of civil liability pursuant to G.S. 160A-485 (waiver of immunity through insurance purchase). (The Triangle Transit Authority, based in the Research Triangle Park, is currently the only such authority in existence.) The act waives the authority's governmental immunity up to a minimum of \$20 million per single accident or incident and requires the authority to maintain at least that much liability insurance. For purposes of the statute, participation in a local government risk pool pursuant to G.S. Chapter 58, Article 23, is considered to be the purchase of insurance. S.L. 2005-160 applies to claims arising on or after July 7, 2005.

Vacancies in Beaufort County elective offices. Vacancies in the offices of county commissioner, register of deeds, and sheriff in North Carolina's counties are filled by the board of county commissioners, after receiving the advice of the county executive committee of the political party of the person being replaced. G.S. 153A-27. However, in about forty-one counties, the board of commissioners has no flexibility in making the appointment. The board must appoint the political party's nominee if a nomination is made within a specified time. G.S. 153A-27.1. Since 1997, Beaufort County has had a special rule different from either statute—the commissioners were to appoint a replacement from a list of nominees submitted by the party executive committee. S.L. 2005-263 (H 922) repeals the special rule and places Beaufort County back under G.S. 153A-27.1.

Police Power

Highway solicitation ordinances. S.L. 2005-310 (H 813) may answer some questions about the extent of local government authority to regulate solicitation on public rights-of-way, particularly along state highways. The act enacts new G.S. 20-175(d) to authorize local governments to enact ordinances restricting or prohibiting a person from standing on any street, highway, or right-of-way excluding sidewalks while soliciting, or attempting to solicit, any employment, business, or contributions from the driver or occupants of any vehicle. The activities of licensees, employees, and contractors of the North Carolina Department of Transportation (NCDOT) and of municipalities that are engaged in construction or maintenance or in making traffic or engineering surveys are exempted.

S.L. 2005-310 leaves several questions about roadside solicitation unanswered. First, the act authorizes local governments to prohibit solicitation of "*any* employment, business, or contributions" (emphasis added). Does this mean that a local government may prohibit solicitation in *any one or more* of these categories, while allowing other roadside solicitation to continue? For example, could it prohibit solicitation by unemployed or homeless persons, while allowing charitable solicitation by civic clubs or allowing the operation of fruit and vegetable stands? Would such an approach be consistent with the First Amendment to the United States Constitution? Second, is there less justification for a prohibition if none of the prohibited activities interfere with traffic? Third, the act allows local governments to prohibit only standing on roads and rights-of-way while soliciting or attempting to solicit. Could a local government use the act to regulate persons sitting in a chair by the roadside?

Exemptions from the statewide smoking law. S.L. 2005-19 (H 239) and S.L. 2005-168 (H 1482) exempt the buildings and grounds of health departments and social services departments, respectively, from G.S. Chapter 143, Article 64, which deals with smoking in public places. (Health departments were already exempt from the article, but the exemption did not specify what health department property was covered.)

The effect of these acts is to permit local governments to regulate smoking in the specified areas, free of the various restrictions to which they would otherwise be subject under Article 64. The *grounds* of a health or social services department is defined as the area located within 50 linear feet of the department.

Property Transactions

Laws enacted this session concerning the sale of property by local governments, acquisition of real property by regional councils of governments, and the disposition of firearms are discussed below.

Informal property disposal and electronic auctions. S.L. 2005-227 (H 1332) makes two important changes in G.S. Chapter 160A, Article 12, the statute governing property disposal by cities, counties, school administrative units, and other local governments. First, the act amends G.S. 160A-266(c) to raise the upper limit on disposal of personal property using informal, locally adopted procedures from \$5,000 to \$30,000 for any one item or group of similar items. Second, it amends G.S. 160A-270(c) to clarify the notice procedures for public auctions of property that are conducted electronically. Under the amended statute, notice of the auction may be published in a newspaper having general circulation in the local political subdivision, by electronic means, or both. The local governing board must approve any decision to publish notice solely by electronic means for a particular contract or for all contracts under the electronic auction authorization.

Acquisition of real property by regional councils of governments. G.S. 160A-475(8) has prohibited regional councils of governments from constructing or purchasing buildings or acquiring title to real property. Consequently they have had to lease all of the facilities needed for their operations. S.L. 2005-290 (H 819) enacts new G.S. 160A-475(7a), which partially repeals this prohibition. Specifically, the act authorizes regional councils to acquire real property by purchase, gift, or otherwise and to improve that property to meet their office space and program needs. Regional councils are still prohibited, however, from exercising the power of eminent domain.

Disposal of firearms seized by law enforcement agencies. S.L. 2005-287 (H 1016) amends various laws governing the disposal of firearms seized, found, or received by local and other law enforcement agencies to allow the agencies more disposal options in many cases. An agency may be allowed either to keep the firearms for its official use or to trade or exchange them with or sell them to a federally licensed firearms dealer, depending on the applicable statute and provided that procedures set out in the act are followed. If firearms are sold, the proceeds may be used either for law enforcement purposes or to maintain free public schools in the county, depending on the statute under which the disposition occurs. S.L. 2005-287 is discussed in detail in Chapter 7, "Criminal Law and Procedure."

Public Enterprises and Transportation

In addition to this section, the reader interested in particular aspects of this subject should consult Chapter 5, "Community Planning, Land Development, and Related Topics"; and Chapter 17, "Motor Vehicles."

Local government stream-clearing programs. Obstructions in streams make removal of storm water more difficult and can lead to increased flooding. These concerns have led some local governments to consider establishing stream-clearing programs. S.L. 2005-441 (H 1029) specifically authorizes counties and municipalities to address this issue. Under new G.S. 153-A-140.1 and G.S. 160A-193.1, counties and cities, respectively, may remove natural and artificial obstructions in stream channels and floodways if the obstructions may impede the passage of water when it rains. The act applies to stream-clearing activities that begin on or after September 27, 2005.

The act also limits county and municipal liability with respect to stream-clearing. It specifies that the actions of a city or county to clear stream obstructions do not create or increase the city's or county's responsibility for the clearing or maintenance of the stream or for the stream's

flooding. County and municipal stream-clearing efforts do not create any ownership in the stream or obligation to control it. These efforts do not affect any otherwise existing private property right, responsibility, or entitlement concerning a stream, nor is the act to be construed as affecting existing rights of the state to control or regulate streams or activities within streams.

The city or county must comply with all state and federal legal requirements in implementing its program. Nothing in the new law relieves a local government from negligence that might be found under otherwise applicable law.

Maintenance of state roads. S.L. 2005-382 (H 747) clarifies definitions concerning the state road system used in G.S. 136-44.2, a statute dealing with the state budget and appropriations for highways. The act specifies that the terms “state primary system” and “state secondary system” include all portions of those road systems located both inside and outside municipal limits, and it deletes the somewhat confusing category of “state urban system.”

The act also provides a means for coordinating maintenance and resurfacing work between municipalities and state highway divisions. Specifically, it amends G.S. 136-66.1 to require all state highway divisions and those cities and towns that are under contract with NCDOT to maintain roads on the state highway system to develop annual plans for that work. The work plans must be as consistent as possible with the needs identified in the state road condition and maintenance report developed biennially by NCDOT in accordance with G.S. 136-44.3. In developing its plan, each highway division must give consideration to any special needs or information provided by that division’s municipalities and must make the plan available to the municipalities on request. The plans developed by the cities and towns must be submitted to the respective division engineers and must be mutually agreeable to both parties.

Prohibition of “bundling” of electric services. S.L. 2005-150 (S 512) enacts new G.S. 75-39 to prohibit municipalities and other providers of water or sewer services from offering or agreeing to provide, extend, enhance, or accelerate the provision of these or other municipal services or facilities to any person in consideration of that person or another person agreeing to receive electric service from the municipality or another electric supplier. Further, these providers may not refuse to provide or threaten or act to deny, delay, or terminate the provision of, any municipal services or facilities to anyone as a result of, or in an attempt to influence, that person’s choice of an electric supplier. Practicing such so-called “bundling” is declared to be an unfair method of competition and an unfair act or practice under G.S. 75-1.1 (part of the state’s antitrust laws).

Electric service territories. S.L. 2005-150 also introduces a framework within which North Carolina’s electricities (cities that are in the electricity business) may be able to settle territorial disputes with other electric suppliers such as electric membership corporations. Specifically, the act provides that during the period beginning June 1, 2005, and ending May 31, 2007, a city must obtain the written consent of an electric membership corporation before it extends an electric distribution line outside of the city’s corporate limits and into territory assigned to the corporation, and that a corporation must obtain the consent of any city the corporate limits of which are within three miles of any part of a line or extension proposed by the corporation before it undertakes construction or extension of the line (new G.S. 160A-331.1, 160A-331.2, and 117-10.3). The act requires that this consent be given, unless the consenting party concludes that the line’s construction is not supported by public need. During this same period, electric membership corporations and cities that own electric lines must undertake good faith negotiations regarding the provision of electric service in areas outside a city’s corporate limits and submit those agreements to the N.C. Utilities Commission for approval. S.L. 2005-150 specifies that any dispute concerning a party’s failure to grant consent or to enter into an agreement concerning electric service outside a city’s corporate limits must be resolved through procedures for prelitigation mediation of territorial disputes set out in new G.S. 7A-38.3B. Under G.S. 7A-38.3B(i), a member of the Public Staff of the N.C. Utilities Commission has authority to issue a binding opinion resolving any territorial dispute that is not resolved through negotiation or mediation.

S.L. 2005-150 requires any supplier that supplies electric services in an area where the consumer has a right to choose its supplier to notify the consumer of that choice. If the supplier fails to provide this notice, it will forfeit its right to service that customer [G.S. 160A-332(a)(6b)].

Finally, the act makes it unlawful for a primary or secondary supplier to provide electricity in an area it does not have the right to serve. It requires such a supplier to cease providing services upon written notification by the lawful provider servicing the area, unless the challenged supplier has a good faith basis for believing it has authority to continue rendering the service. The act authorizes the legitimate supplier to bring an action to compel the challenged supplier to discontinue the unlawful service and to remove its facilities used to provide it. The lawful supplier may recover its costs—including attorneys' fees—of enforcing these provisions, which are found in new G.S. 160A-332(c).

Subdivision streets and utilities. S.L. 2005-286 (H 1469) makes the dedicated streets or other public rights-of-way shown on recorded subdivision plats or maps immediately available for use by public utilities and cable television systems. The act's details are discussed in Chapter 5, "Community Planning, Land Development, and Related Topics." S.L. 2005-286 was effective August 22, 2005, with respect to maps and plats recorded after that date.

Reports of positive drug and alcohol test results for transit operators. S.L. 2005-156 (H 740) requires public transit operators and other employers of persons who operate commercial motor vehicles and are subject to federal drug and alcohol testing to report any positive results on federally required tests to the N.C. Division of Motor Vehicles. The employer must also disqualify the person testing positive from operating such vehicles until successful completion of treatment. This act is discussed in detail in Chapter 17, "Motor Vehicles."

Representation of metropolitan planning organizations on regional transportation authority boards of trustees. S.L. 2005-322 (H 1202) clarifies that either the chair of each metropolitan planning organization within the territorial jurisdiction of a regional transportation authority organized under G.S. Chapter 160A, Article 27, or an organization member designated by the planning organization is to serve as a member of the authority's board of trustees. Previously, if the chair did not serve, he or she was to appoint either the chair of the transportation advisory committee, or a committee designee, to serve.

Animal Control

The North Carolina General Assembly enacted several new laws in 2005 that will affect animal control services provided by local governments. The new laws address state regulation of animal shelters, euthanasia of animals held in shelters, financial responsibility for the care of dogs allegedly used for fighting, criminal penalties for cockfighting, and state regulation of petting zoos. The acts dealing with the first four topics are discussed below. The act regulating petting zoos, S.L. 2005-191 (S 268), or Aedin's Law, is covered in Chapter 12, "Health."

Regulation of animal shelters. Local governments are authorized to operate or contribute to the support of animal shelters. Under the Animal Welfare Act (G.S. Chapter 19A, Article 3), the North Carolina Department of Agriculture and Consumer Services is responsible for establishing and enforcing licensing regulations governing animal shelters. Until recently, only private animal shelters operated by animal welfare organizations were subject to those regulations; city and county shelters were exempt.

In 2004 the General Assembly enacted S.L. 2004-199 to require local government shelters to comply with department regulations. The 2004 amendments, however, did not provide the department with specific authority to enforce those regulations against local government shelters. A provision in the Current Operations and Capital Improvements Appropriations Act of 2005, S.L. 2005-276 (S 622), directly addresses the ambiguities that remained after the 2004 amendments. The legislation amends the definition of "animal shelter" in the Animal Welfare Act to clarify that all of the provisions of the act apply not only to private shelters but also to those owned, operated, or maintained by or under contract with a local government. This change was effective October 1, 2005. In general, the act requires animal shelters to have certificates of registration from the department, authorizes the department to take action on a certificate of registration, and requires the Board of Agriculture to establish standards (i.e., rules) governing the care of animals at shelters, transportation of animals to and from shelters, and record keeping at shelters.

Two additional changes were made to the definition of *animal shelter*. First, the definition was expanded to encompass facilities affiliated with nonprofit organizations devoted to animal rehabilitation. Second, the definition previously encompassed facilities used to house or contain any dogs and cats. The language was clarified to limit the scope of the definition to facilities housing or containing “seized, stray, homeless, quarantined, abandoned or unwanted” dogs and cats.

Euthanasia. Until this session, the only state law addressing euthanasia procedures in local government shelters was the rabies law (G.S. 130A-192). The rabies law permits animal control officers or shelters to employ euthanasia procedures that are approved by one of three national organizations: the American Veterinary Medical Association, the Humane Society of the United States, or the American Humane Association. S.L. 2005-276 amends a section of the Animal Welfare Act (G.S. 19A-24) to require the Board of Agriculture to adopt new rules related to the euthanasia of animals in animal shelters and other facilities regulated by the department (such as pet shops and boarding kennels). The rules will identify those euthanasia methods that are approved for use in all of the regulated facilities in all situations (not just when an animal is impounded for a violation of the rabies law). The rules must also address equipment, process, separation of animals, age and condition of animals, and mandatory training of personnel.

Dogfighting. Current state law makes it a crime to be involved with dogfighting and dog baiting. G.S. 14-362.2. Often when a dogfighting operation is discovered, local animal control officials are involved in seizing the dogs and providing food, shelter, and veterinary care for them until the criminal case has been resolved. If an alleged offender is convicted under the criminal law, the court may order the person convicted to reimburse the local government for the cost of the animals’ care while the case was pending, but the local government rarely recovers the full amount.

S.L. 2005-383 (H 1085) enacts new G.S. 19A-70, which allows animal shelters to get a court order requiring a defendant in a dogfighting case to pay in advance for the anticipated costs of caring for seized dogs. If the defendant does not comply with the order, the dogs may be forfeited, and the shelter may either euthanize them or place them for adoption (if appropriate). If the defendant complies with the order and is subsequently found not guilty, the defendant is entitled to a full refund of the entire amount deposited with the court. The law was effective December 1, 2005.

Cockfighting. Current state law makes it a crime to be involved with an exhibition featuring cockfighting G.S. 14-362. S.L. 2005-437 (H 888) significantly increases the penalty for these activities from a Class 2 misdemeanor to a Class I felony.

Petting zoos. A new state law regulating petting zoos, S.L. 2005-191, called Aedin’s Law, is discussed in Chapter 12, “Health.”

Local Government Finance

Revenues

Lottery revenues. The most significant source of new revenue affecting local government will be the new state lottery approved at the very end of the 2005 session. [The lottery was enacted by S.L. 2005-344 (H 1023), as modified by S.L. 2005-276 (S 622), and is summarized in Chapter 24, “State Government.”] The lottery sponsors estimate that it will provide about \$300 million in net revenues, and 40 percent of this amount, or about \$120 million annually, will be allocated to the Public School Building Capital Fund to support public school construction. Of this amount, 65 percent is to be allocated to local school units on the basis of average daily membership, while the remaining 35 percent is to be allocated to local school administrative units located, in whole or part, in counties in which the effective county tax rate is higher than the effective statewide average rate.

Local option sales taxes. Late in the session, when it appeared that the Senate would not pass the lottery legislation, the House passed and sent to the Senate three bills authorizing local referenda in forty-six counties to approve an additional 0.5 percent local sales and use tax. Although there were some differences among the three bills, each would earmark the proceeds from the tax, should it pass, to school construction. These bills remained in the Senate at session's end; given the enactment of the lottery legislation, their prospects might not be bright in 2006.

Tax-base sharing. In 2003 the General Assembly enacted G.S. 158-7.4, which is intended to facilitate tax-base sharing by local governments cooperating in economic development projects. It permits two or more local governments to develop a project cooperatively and then agree to share in the taxes levied on the resulting private development. Originally the statute limited the duration of such an agreement to forty years. S.L. 2005-72 (S 867) extends this period to ninety-nine years.

911 charges. G.S. Chapter 62A authorizes two charges on telephone service to help support creation and maintenance of 911 centers. Article 1 of the chapter authorizes a locally imposed charge on land-based telephone service, while Article 2 authorizes a state-imposed charge on wireless telephone service, with a portion of the proceeds shared with local governments. S.L. 2005-439 (H 1261) amends the law as regards both of these charges.

Local charges. The act freezes the maximum 911 charge that a local government may levy. It is either the amount charged on July 1, 2005, or the amount charged pursuant to a resolution adopted on or before August 15, 2005, and effective on or before December 15, 2005, whichever is greater. In addition, the act directs the Joint Legislative Utility Review Committee to study a set of issues associated with local 911 charges and report to the 2006 session of the General Assembly. The specific issues assigned to the committee are as follows:

- Mechanisms to improve accountability for collection and spending of 911 charges by local governments
- Modification of what constitutes authorized expenditures from the proceeds of these local charges
- Whether to adopt a statewide, uniform 911 charge
- Whether to create a State Emergency Telephone Fund and a formula for distributing those moneys to local governments
- Whether to designate the Community College System as the preferred provider of training for public safety answering point staff

Wireless charges. The initial monthly 911 charge for wireless phone service was \$0.80, which the act reduces to \$0.70. The act retains the power of the Wireless 911 Board to modify the charge every two years. It also increases the share of the proceeds from this charge allocated to local governments. The original legislation had allocated 60 percent of these proceeds to providers of wireless telephone services and 40 percent to operators of Enhanced 911 centers. The act reduces the first share to 53 percent and increases the local government share to 47 percent. In addition the act expressly permits a local government to spend its share on equipment used to receive both land-based and wireless 911 calls. Finally, the act gives express authority to the Wireless 911 Board to enforce the restrictions on use of Enhanced 911 funds, including the power to require repayment to the state of funds used for unauthorized purposes.

Court fees. S.L. 2005-363 (H 890) adds a new fee to be charged in some criminal cases in district or superior court. If the defendant is convicted, and if as part of the investigation a local government crime lab conducted DNA analysis, a test of bodily fluids, or an analysis of a controlled substance, then the court may order the defendant to pay up to \$300 to the local government or governments operating the lab. The money is to be placed in the government's or governments' general fund and used for law enforcement.

Borrowing

Project development bonds. In November 2004 the state's voters approved a constitutional amendment that authorized the General Assembly to enact legislation permitting project development bonds in North Carolina. (In other states these bonds are usually known as tax

increment or tax allocation bonds.) The implementing legislation was enacted in 2003, contingent on the success of the referendum, but the 2005 General Assembly enacted a series of modifications to the original legislation, most of which are minor in nature. These were included in two separate bills: S.L. 2005-238 (H 1117), which includes other legislation relating to local government finance, and S.L. 2005-407 (S 528). The changes to the project development statutes are as follows:

- A city issuing project development bonds will be able to pledge its share of local government sales tax proceeds as additional security for the bonds. (A county may not pledge sales tax proceeds unless the bonds have been approved by the county's voters.)
- A city or county issuing project development bonds will be able to pledge the proceeds from special assessments levied against property within a project development district as additional security for the bonds.
- A city or county issuing project development bonds will be able to pledge a security interest in property financed or improved with the proceeds of the bonds as additional security for the bonds.
- The original legislation limits the total size of development financing districts within a county or city to 5 percent of the unit's land area. When a city annexes property within such a district, the city's taxes are not automatically diverted to retiring the project development bonds associated with the district; rather, the city must agree to the diversion. Unless the city does so agree, the land within such a district does not count against the 5 percent limit for the city.
- The original legislation permits project development districts to be established in redevelopment areas or in areas that are appropriate for economic development. With the latter sort of district, however, the statute limits the amount of commercial development that can be forecast for the district if it is outside a city's central business district. That limit is 20 percent of the projected floor space of private development within the district. Under the 2005 legislation, the limit does not apply to a district located in a tier one area and created primarily for tourism-related economic development.

Revenue bonds. Three separate acts modify the law with respect to revenue bonds. The most important change is in S.L. 2005-238, which amends G.S. 159-83 to permit a local government issuing revenue bonds to pledge in support of bond repayment real or personal property that is part of the revenue bond project or of the enterprise system being improved with revenue bond proceeds. This form of security would be in addition to the basic pledge of net revenues from the project or the enterprise system of which it is a part.

Two other changes to the revenue bond statute deal with projects involving special purpose units. S.L. 2005-249 (S 1011) permits a local government to issue revenue bonds for a water treatment facility located on land leased by the local government from a water and sewer authority. The legislation permits the treatment facility to be operated by the authority or by one of the political subdivisions that comprise the authority. This act was probably enacted to facilitate a particular project. S.L. 2005-342 (H 1030) enacts new G.S. 159-201 to permit an airport authority that is authorized by law to construct improvements or facilities and then lease those facilities to another party to borrow money to pay for the improvements and pledge the leases as security for the repayment. This new provision was included in a bill that also expanded the powers of the Brunswick County Airport Commission, which suggests the borrowing provisions were enacted with that county's airport in mind.

Other bond changes. S.L. 2005-238, parts of which are discussed above, also makes changes to the laws concerning procedures for bond issuance and repayment. Most of these changes are technical in nature—for example, allowing the Secretary of the Local Government Commission flexibility to adopt rules in areas in which the statute had set out specific standards. Two important changes, however, further the policy of expanding the security that may be given by local governments when they borrow. First, the act allows a local government borrowing money from the Clean Water Revolving Loan program to secure the loan by providing a security interest in the facility financed with the loan or in the enterprise system of which it is a part. Second, and

similarly, the act allows a public agency financing hospital improvements through the Medical Care Commission to secure the loan by providing a security interest in the hospital facility being improved.

Financial Administration

Sales tax refunds to schools. For many years school administrative units were not entitled to sales and use tax refunds, but in 1998 the General Assembly amended the statutes to permit these entities to file for such refunds. The 2005 appropriations act (S.L. 2005-276), however, takes school administrative units out of the refund statute once again, providing that the refund money should henceforth be placed in the State Public School Fund. This change may stimulate county construction of schools on behalf of school administrative units, as permitted under G.S. 153A-158.1. Because the facility would be owned by the county, the county could seek a refund for any sales or use tax paid during the construction project.

Finance officer bonds. Since 1973 the Local Government Budget and Fiscal Control Act has provided that finance officers must be bonded in an amount between \$10,000 and \$250,000. S.L. 2005-238 updates that requirement by establishing the minimum bond at \$50,000 and removing the maximum. (This provision became effective August 1, 2005; local governments and public authorities should examine their fidelity bond policies to ensure they meet the new minimum.)

New investment instrument. If a local government invests its idle cash with a bank, that money is secured in two ways. First, a minimum amount is insured by federal deposit insurance, currently the first \$100,000. Second, any deposit in excess of the amount covered by federal insurance is secured by collateral posted by the bank; the collateral is typically money market securities. In recent years a number of financial firms have marketed a new investment practice that allows a local government to invest an amount in excess of the federal deposit insurance with one bank, then have that bank buy certificates of deposit from one or more other banks, with the amount invested in each other bank within the amount of the federal insurance. Because the final deposits are with different banks, the local government's money is separately insured in each bank. S.L. 2005-394 (H 1169) amends the public investment statutes in North Carolina to allow the state and its local governments to participate in this sort of investment vehicle. Although the original bank, with which the local government deals directly, must be in North Carolina, the other participating banks may be located anywhere within the United States.

Miscellaneous. S.L. 2005-326 (S 682) expands the kinds of local government entities that may participate in the set-off debt collection system to include public health authorities, metropolitan sewerage districts, and sanitary districts. (This change is effective as to income tax refunds determined on or after January 1, 2006.)

S.L. 2005-368 (S 505) increases the fee paid by counties to county medical examiners for conducting autopsies from \$75 to \$100.

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