

NC Local Government 101

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Structure

Regulations

Services

Funding

Relationships

Transparency

Fall 2026

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N.C. CONSTITUTION

The General Assembly shall provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions.....

N.C. Const. art. VII, § 1 — General Assembly to provide for local government

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State
Legislature

The General Assembly establishes local governments and assigns all responsibilities, powers, and authorities

Counties
100

The primary function of county government is to administer state programs. But county government also serves as the local government for unincorporated territory.

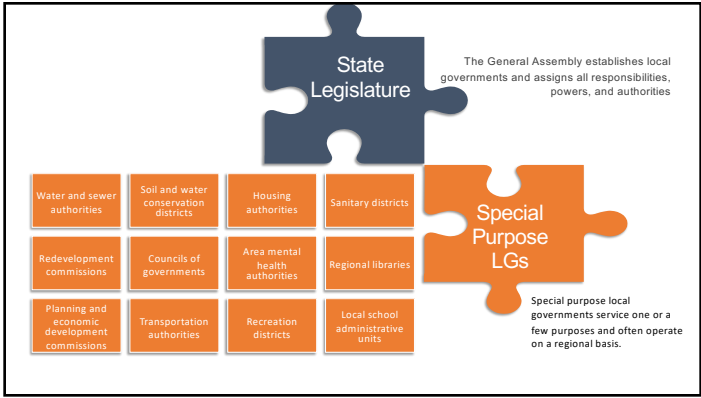
Municipalities
~550

The purpose of municipal government is to provide additional services and regulatory activities in incorporated areas (beyond state- and/or county-wide programs).

Special Purpose
LGs

Special purpose local governments service one or a few purposes and often operate on a regional basis.

3



4

Which of the following actions can the General Assembly legally take?

- a. Enact a law removing from office all of the current members of a board of county commissioners
- b. Enact a law to un-incorporate an existing municipality
- c. Enact a law to eliminate the bidding requirements for a particular project to be undertaken by a particular county
- d. Enact a law creating an exception to the conflict of interest statutes applicable only in a specified county
- e. Enact a law eliminating a local government’s privilege license tax authority.
- f. All of the above
- g. None of the above

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N.C. CONSTITUTION

The General Assembly shall provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, **and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable.**

N.C. Const. art. VII, § 1 — General Assembly to provide for local government

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Which of the following actions can a county, city, or special purpose local government legally take?

- a. A county board may exempt certain properties from paying property taxes
- b. A county board may abolish all municipalities within its territorial boundaries
- c. A city board may fund salary supplements for public school teachers
- d. A city board may levy a new half-cent sales tax
- e. A water and sewer authority may provide law enforcement services within its territorial jurisdiction.
- f. All of the above
- g. None of the above

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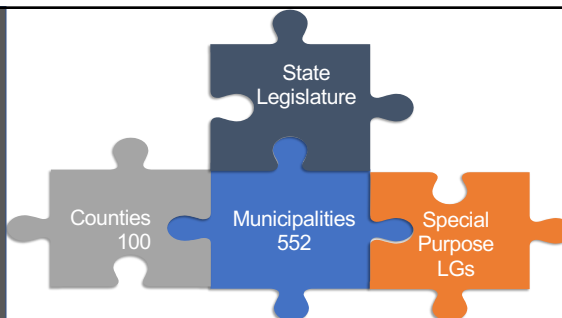
N.C. SUPREME COURT

As creations of the legislature, municipalities have only those powers delegated to them by the General Assembly.

Quality Built Homes Inc. v. Town of Carthage, 369 N.C. 15 (2016)

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Local Government Power Structure



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Major Functions of Counties and Municipalities

Regulatory Counties and municipalities Use the police power to protect public health, safety, and welfare.	Direct Services Counties and municipalities Deliver core services straight to residents.	Human Services Mainly counties Carry out state-mandated programs, often as agents of the state.
Support Education Mainly counties Fund and assist public schools and community colleges.	Public Enterprises Counties and municipalities Run business-like operations paid for mainly by user fees.	Administration Counties and municipalities Keep public records and run the machinery of government.

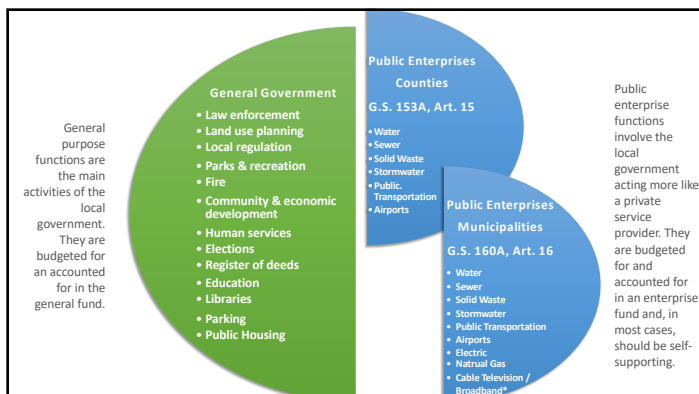
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What Makes NC Government Unique?

- State has primary responsibility for funding education and highways
- Counties have primary responsibility for administering human services at the local level
- Counties have authority to provide most urban-type services
- Counties and cities have extensive authority to regulate and direct urban development
- Counties and cities have broad authority to enter interlocal agreements and form regional partnerships
- Heavy reliance on general-purpose local governments (counties and cities) to perform most local functions



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How Broadly Do We Read a Grant of Authority?

The Town of Pleasantville wants to prohibit "sagging pants."

The proposed ordinance would make it unlawful for a person in a public place to wear pants more than three inches below the waist in a manner that exposes underwear.



G.S. 160A-174(a)	Police power: a city may "define, prohibit, regulate, or abate" conditions detrimental to "health, safety, or welfare" or the "peace and dignity of the city."
G.S. 160A-174(b)	Ordinances must be consistent with state and federal law, but a state prohibition, standing alone, does not bar a "higher standard of conduct or condition."
G.S. 14-190.9	State law separately regulates public exposure of a person's "private parts."
State v. Tenore, 280 N.C. 238 (1972)	Statewide obscenity and indecent-exposure laws did not necessarily preempt local rules; a city may impose a higher standard if otherwise within its authority.

Does G.S. 160A-174 authorize this regulation?
How broadly or narrowly do we read the grant of authority?

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GENERAL STATUTES

Grants of power to local governments shall be construed to include any additional and supplementary powers that are reasonably necessary or expedient to carry them into execution and effect.

But the exercise of such additional or supplementary powers cannot be contrary to state or federal law or the public policy of the State.

G.S. 160A-4 (cities); G.S. 153A-4 (counties)

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How far do implied powers reach?

Homebuilders Ass'n of Charlotte, Inc. v. City of Charlotte, 336 N.C. 37 (1994)

Recognized implied authority to charge fees for processing permits — rezonings, plat review, driveway and grading permits. The fees still had to be reasonably related to the cost of administering the permit or inspection. Directs courts to construe an existing statutory grant broadly and to recognize supplementary powers that are reasonably necessary or expedient to carry that grant into effect.

Lanvale Properties, LLC v. County of Cabarrus, 366 N.C. 142 (2012)

Cabarrus County lacked statutory authority to adopt an adequate public facilities ordinance conditioning residential approvals on a fee to subsidize school construction. General zoning and subdivision powers did not reach it. Makes clear that broad construction cannot supply an underlying power the General Assembly never granted or extend general authority into an area governed by a materially different statutory scheme.



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Local Government Analysis: Can we do it?

01

Is the function authorized?

Does any grant of authority cover this kind of activity at all?

02

Is the method authorized?

Even if the activity is allowed, is this way of doing it allowed?

03

Did the right actor act?

Board, manager, or other — and was delegation proper?

04

Were requirements met?

Constitutional, statutory, procedural, and financial.

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Four Kinds of Ultra Vires Problems

01

No substantive authority

The unit had no power to take the action at all.

02

Unlawful execution

The action was authorized but carried out unlawfully.

03

Wrong actor

The unit had the power, but the wrong official exercised it.

04

Procedure skipped

The unit had the power, but missed a mandatory step.

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The Preaudit Requirement: No Certificate, No Contract

The Rule

G.S. 159-28(a). Before a unit incurs an obligation to pay money, the finance officer (or a board-designated deputy) must:

- 1 Confirm an appropriation covers it
- 2 Confirm enough unencumbered funds remain
- 3 Sign a preaudit certificate on the writing that evidences the contract

No dollar threshold — a \$1 contract and a \$1 million contract are treated the same.

If skipped: the obligation is invalid and unenforceable by either party. Officials who cause the violation face personal liability (G.S. 159-28(e)) and possible criminal liability (G.S. 159-183).

Courts Enforce It Strictly

- *Cincinnati Thermal Spray v. Pender County*, 101 N.C. App. 405 (1991): no valid contract; vendor's claim dismissed.
- *Data General Corp. v. County of Durham*, 143 N.C. App. 97 (2001): no recovery in equity either.
- *Town of Rural Hall v. Garner, No. COA23-185* (N.C. Ct. App. Sept. 5, 2023): manager's severance settlement void; bad-faith argument rejected.

The Nuance: Newer Exceptions

- *Executive Medical Transp. v. Jones Cnty. DSS*, 223 N.C. App. 242 (2012), applied the certificate step to oral contracts, effectively requiring every contract to be in writing. The General Assembly responded in S.L. 2015-246.

Today, a signed certificate (step 3) is not required for:

- Oral contracts (no writing)
- Units with an LGC-certified automated system (G.S. 159-28(a3)–(a4))
- Contracts approved by the LGC
- Payroll
- Electronic transactions (p-cards, fuel cards) under an LGC-compliant policy

But steps 1 and 2 still apply to every obligation.

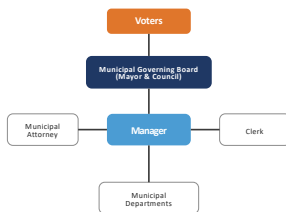
Why it matters: a process defect is not a technicality. A contract signed without the required preaudit is void.

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Municipal Government

Council–Manager Form

Council delegates more administration and operations to staff



(Weak) Mayor–Council Form

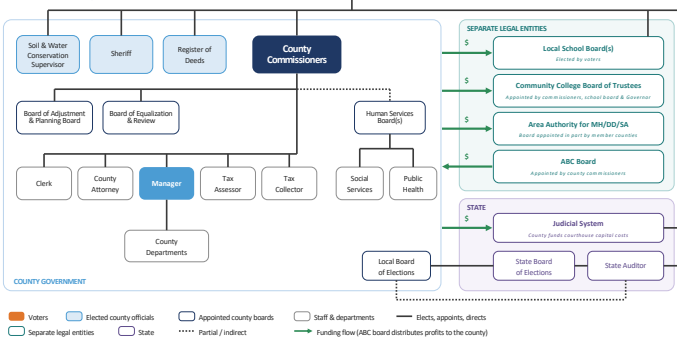
Council is more involved in administration and operations



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County Government

Voters



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GENERAL STATUTES

All powers, functions, rights, privileges, and immunities of the corporation shall be exercised by the city council and carried into execution as provided by the charter or the general law. A power, function, right, privilege, or immunity that is conferred or imposed by charter or general law without directions or restrictions as to how it is to be exercised or performed shall be carried into execution as provided by ordinance or resolution of the city council. G.S. 160A-12

Except as otherwise directed by law, each power, right, duty, function, privilege and immunity of the corporation shall be exercised by the board of commissioners. A power, right, duty, function, privilege, or immunity shall be carried into execution as provided by the laws of the State; a power, right, duty, function, privilege, or immunity that is conferred or imposed by law without direction or restriction as to how it is to be exercised or performed shall be carried into execution as provided by ordinance or resolution of the board of commissioners. G.S. 153A-12

Exercise of corporate power

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The Governing Board



- Acts as a body
- Must take actions at an official, public meeting
- A single member or minority of members cannot bind the board

Type of Board Action	Examples	Why it matters
Legislative	Ordinances, budgets, policies, legislative zoning	Broad discretion within constitutional and statutory limits
Administrative	Contract administration, permits under objective standards, personnel	Authority, delegation, and statutory compliance
Quasi-judicial	Variances, special use permits, certain appeals	Competent evidence, impartiality, findings, due process

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Delegation of Authority

For powers assigned to the county or city, the governing board sets the method of exercise by ordinance or resolution.

BOARD DELEGATION

The board may assign decision-making authority to staff when law allows and the delegation stays within statutory limits.

STATUTORY ASSIGNMENT

If a statute assigns the function to the board or a named official, that person or body exercises it unless another statute authorizes delegation.

**Staff may help carry out a board decision without receiving authority to make it.*

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“The board may / shall ...”

The governing board exercises the assigned authority. It may delegate only if another law permits.

“The finance officer / sheriff / manager may / shall ...”

The named official exercises the assigned authority. The official or governing board cannot reassign it.

“The county / city may / shall ...”

The power belongs to the local government. The governing board determines how it is carried out, within statutory limits.

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County Governments: Several Power Centers

Major State-Mandated Functions	Policy-Setting Authority	Funding Authority / Responsibility	Control Over Personnel
Law Enforcement	State, Sheriff, County Board	County Board	Sheriff (but County Board sets number of personnel and compensation)
Register of Deeds	State, County Board	County Board	Register of Deeds (but County Board sets number of personnel and compensation)
Public Schools	State, Local Board of Education	State, County Board	Local Board of Education
Public Health	State, Local Public Health Board/County Board	State, County Board	Local Public Health Board/County Board
Mental Health	State, Regional Mental Health Board	State, County Board	Area Mental Health Authority Board
Social Services	State, Local Social Services Board/County Board	State, County Board	Local Social Services Board/County Board
Elections	State, Local Board of Elections	State, County Board	Local Board of Elections (but county board sets total salary amount)
Community Colleges	State, Community College Board	State, County Board	Community College Board

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N.C. CONSTITUTION

In each county a Sheriff shall be elected by the qualified voters thereof at the same time and places as members of the General Assembly are elected and shall hold his office for a period of four years, subject to removal for cause as provided by law.

N.C. Const. art. VII, § 2 – Sheriffs

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The Sheriff's Deputy



County commissioners are unhappy that the sheriff hired a particular deputy. At their next meeting, they vote 5–0 directing the sheriff to fire him. The Sheriff refuses. A week later, one commissioner suggests a different approach: cut two deputy positions from the sheriff's budget.

May the county board of commissioners direct the firing?

May the county board of commissioners cut the positions?

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Commissioners & the Sheriff

Board of Commissioners

- Fixes the number of salaried positions, but must allow at least two deputies plus any SROs required by private-school agreements G.S. 153A-103(2)–(3)
- Fixes pay for all county officers and employees, but cannot cut the sheriff's pay during the term without consent G.S. 153A-92(a), (b)(1)
- Cutting pay for the sheriff's staff (unless the cut applies to all departments) requires the sheriff's approval; impasse goes to arbitration by the senior resident superior court judge G.S. 153A-92(b)(3)
- Must approve hiring of near relatives or persons convicted of crimes of moral turpitude G.S. 153A-103(1)
- Appropriates funds and provides the jail; no obligation without an appropriation G.S. 153A-218; 159-8

Sheriff

- Elected constitutional officer; four-year term N.C. Const. art. VII, § 2
- Exclusive right to hire, discharge, and supervise employees of the office; deputies serve at the sheriff's pleasure G.S. 153A-103(1)–(2)
- Care and custody of the jail G.S. 162-22
- Must stay within appropriations; cannot bind the county by contract absent delegation G.S. 159-8, 159-28

CASE LAW

- Young v. Bailey, 368 N.C. 665 (2016) — A sheriff's office is not a program or department of the county; its employees are not county employees for purposes of the county political-activity statute (G.S. 153A-99), and deputies may be dismissed for political reasons

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Commissioners & the Register of Deeds

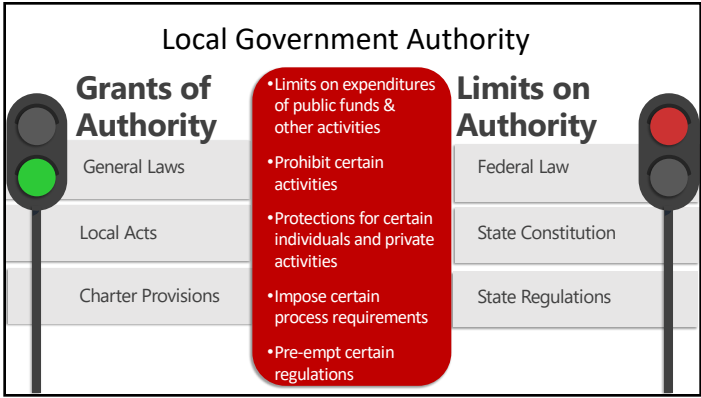
Board of Commissioners	Register of Deeds
- Fixes the number of employees; register is entitled to two deputies, but must justify the second G.S. 153A-103(2) - Fixes the register's pay; no reduction during the term without consent. Same protection for staff pay as the sheriff G.S. 153A-92(b)(1), (b)(3) - Must approve hiring of near relatives or persons convicted of crimes of moral turpitude G.S. 153A-103(1) - Must furnish supplies and equipment for the office G.S. 161-11.3 - Must set aside 10% of retained fees in a nonreverting Automation Enhancement and Preservation Fund G.S. 161-11.3	- Elected to a four-year term G.S. 161-1 - Exclusive right to hire, discharge, and supervise office employees; appoints assistants and deputies G.S. 153A-103(1); 161-6 - Recording duties are prescribed by state law, not by the commissioners G.S. 161-12 et seq. - Fees are uniform statewide; the county cannot change them. A portion of certain fees is remitted to the State Treasurer G.S. 161-10, 161-11.5
CASE LAW Few reported cases address the commissioners-register relationship directly. Courts apply the same G.S. 153A-92 and 153A-103 framework that governs the sheriff, and the reasoning of <i>Young v. Bailey</i> about exclusive personnel authority applies by analogy.	

Commissioners & the Local Board of Elections

Board of Commissioners	State Board & County Board of Elections
- Must appropriate "reasonable and adequate funds" for the county board's legal functions, including the director's compensation G.S. 163-37(a) - Approves the election director's salary as recommended by the county board; it must be commensurate with similar counties G.S. 163-35(c) - May not accept private money or in-kind contributions for conducting elections (voting sites excepted) G.S. 163-37(b) - No authority over election administration decisions	- Five members: four appointed by the State Board; the chair appointed by the State Auditor G.S. 163-30(a) - Director nominated by the county board of elections and appointed by the State Board's Executive Director G.S. 163-35(a) - County board of election's powers and duties set by state law and State Board supervision G.S. 163-33
CASE LAW <i>Gilbert v. Guilford County</i>, No. CDA14-523 (N.C. Ct. App. Dec. 16, 2014) — Affirmed ruling that the county failed to set an appropriate elections director salary under G.S. 163-35(c) and 163-37. <i>Graham Cty. Bd. of Elections v. Graham Cty. Bd. of Comm's</i>, 212 N.C. App. 313, (2011) — County boards of elections are distinct legal entities from the counties they serve; county commissioners provide funding, but may not exercise powers the General Assembly has assigned to the elections board.	

Commissioners & the Local Board of Education

Board of Commissioners	Board of Education
- Funds current expense and capital outlay; state policy places responsibility for school facilities on counties G.S. 115C-426; 115C-408(b) - Appropriates a lump sum unless it chooses to allocate by purpose, function, or project G.S. 115C-429(b) - With more than one school unit in the county, current-expense funds are apportioned per pupil G.S. 115C-430 - Funding authority does not carry control over school operations, personnel, or policy	- General control and supervision of all matters pertaining to the public schools G.S. 115C-36 - Hires personnel, sets curriculum and calendar within state law, and holds title to school property Ch. 115C - Budget disputes: joint meeting, mediation, then an action in superior court limited to the fiscal year at issue G.S. 115C-431



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N.C. CONSTITUTION

N.C. Const. art. I, § 2
Government is “instituted solely for the good of the whole.”

N.C. Const. art. I, § 32
No person or group is entitled to “exclusive or separate emoluments or privileges” except “in consideration of public services.”

N.C. Const. art. V, § 2(1)
Taxing power may be exercised “for public purposes only.”

N.C. Const. art. V § 7(2)
“No money shall be drawn from the treasury of any county, city or town, or other unit of local government except by authority of law.”

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3 Core Requirements

Legal Authority	Public Benefit	Consideration for Private Benefit
The local government must have legal authority to undertake the activity.	The action must serve a public purpose rather than primarily benefiting private interests.	If the action provides a particular person or group with a special benefit, payment, or privilege, that benefit must be reasonably related to public services or other enforceable public value received in return.

Private parties may benefit from government action, but the arrangement must remain directed toward an authorized public objective, use reasonable and nonarbitrary standards, and include sufficient terms and safeguards to ensure that the promised public benefit is actually delivered.

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Lawful?

A beloved city resident leaves his faucets running all day to accommodate his many cats. He has recently fallen behind on his rather high water bill. The department's normal procedure is to shut off the water and impose a penalty for the delinquency. The city manager feels sorry for the resident and requests that the city's governing board make an exception and waive his outstanding utility fees and late penalties. To a cheering crowd, the board votes unanimously to do so.

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Lawful?

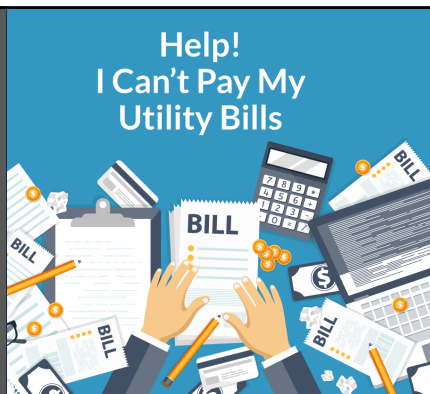
Town grants one-time-per-year adjustment to water bill if leak is discovered and bill amount is higher than comparable monthly bill, as long as customer provides proof from licensed plumber that leak is fixed.



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Lawful?

City sets up utility payment assistance program in the general fund, whereby it provides cash subsidies to low-income water customers who are also city residents to help them pay their water bills each month.



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N.C. CONSTITUTION, ARTICLE II, SECTION 24

Limits on Local, Private, and Special Acts

The General Assembly may not pass a local, private, or special act on 14 subjects:

- Health, sanitation, nuisances
- Changing names of cities and towns
- Streets, highways, alleys
- Ferries and bridges
- Non-navigable streams
- Cemeteries
- Pay of jurors
- Township and school district lines
- Remitting fines or refunds
- Labor, trade, mining, manufacturing
- Relief from tax collection duties
- Informal wills and deeds
- Divorce, names, legitimization, citizenship
- Creating corporations

1 Is it a local act?

A law is general if it treats a reasonable class uniformly, even if it covers only part of the state.

2 Does it relate to a banned subject?

Since 2016: a material connection, judged by its stated purpose and practical effect.

1965	High Point Surplus Co. v. Pleasants , 264 N.C. 650 (1965) Sunday-closing law with county-by-county exemptions was a local act regulating trade.	Struck
1978	Adams v. Dept. of Natural & Economic Resources , 295 N.C. 683 (1978) Coastal Area Management Act, covering 20 counties, is a general law based on a reasonable classification, with rational difference in circumstance.	Upheld
1994	City of New Bern v. New Bern-Craven Cty. Bd. of Educ. , 338 N.C. 430 (1994) Shifting building-code inspections from the city to the county was a local act relating to health.	Struck
2016	City of Asheville v. State , No. 391PA15 (2016) Forced transfer of the city water system had a material connection to health and sanitation.	Struck
2016	Town of Boone v. State , No. 93A15-2 (2016) Ending wastewater jurisdiction was organizing local government under Art. VII, §1, so §24 did not apply.	Upheld

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N.C. CONSTITUTION

The General Assembly may enact laws whereby the State, any county, city or town, and any other public corporation may contract with and appropriate money to any person, association, or corporation for the accomplishment of public purposes only.

N.C. Const. art. V, § 2(7) — Contracts with and appropriations to private entities

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Funding for Private Entities

Support

A local government generally **DOES NOT** have statutory authority to donate/grant money to or support a nonprofit's, community organization's, or other private entity's general operating or capital expenditures (but there are a few exceptions)

vs.

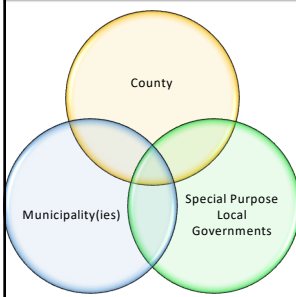
Partnership

A local government **MAY** enter a partnership (contractual agreement) with any private entity to fund an activity, service, project, etc. that the local government has statutory authority to engage in.
See G.S. 160A-20.1 & G.S. 153A-449

Unless an exception applies, should treat nonprofit / other private entity as a "service provider"

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Shared Governance with Other Local Governments

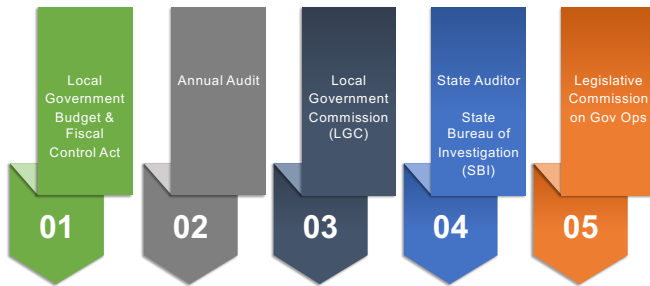


§ 160A-461. Interlocal cooperation authorized.
Any unit of local government in this State and any one or more other units of local government in this State or any other state (to the extent permitted by the laws of the other state) may enter into contracts or agreements with each other in order to execute any undertaking. The contracts and agreements shall be of reasonable duration, as determined by the participating units, and shall be ratified by resolution of the governing board of each unit spread upon its minutes.

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Accountability & Oversight

There are separate but overlapping mechanisms to ensure local government compliance with financial and other statutory requirements.



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Local Government Commission



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State Auditor

The State Auditor can audit or investigate local governments when they receive state or federal funds or when fraud or misuse of public money is suspected and enforces compliance with audit laws.

North Carolina Office of the State Auditor
Hotline: 1-800-730-TIPS (8477) or visit the [OSA website](#)



Audit Subrecipients

Examines books and records of local governments receiving state/federal grants. Ensures eligibility and lawful use of funds



Investigative Audits

Investigates fraud, waste, or misuse of public funds. Issues reports of findings. May refer matters to law enforcement (SBI, district attorney). If a local government is the subject of an investigative audit with findings, the LGC may require that the governing board select its CPA (for the annual audit) from a list of **three firms** provided by the LGC.



Expanded Oversight Powers (S.L. 2025-83)

Expanded audit/investigative jurisdiction to "publicly-funded entities." The law defines "publicly-funded entity" broadly (private corporations, institutions, nonprofits, etc.) that receive, disburse, or handle State or federal funds. The Auditor is empowered to investigate those entities, limiting examination to the funds related to public monies.

Joint Legislative Commission On Gov Ops May...

"study the efficiency, economy, and effectiveness" of any unit and "evaluate the implementation of public policies" of the same. It also may investigate "possible instances of misfeasance, malfeasance, nonfeasance, mismanagement, waste, abuse, or illegal conduct" by officers or employees of a unit in the exercise of their public duties.

What's a unit?	How?	Confidentiality
- State Agency - Unit of Local Government - Public Authority - Non-State Entity - any private entity that receives public funds to conduct a program or provide a service to a State agency, local government or public authority.	- Testimony - Access to Facilities - Access to Documents / Data Storage Systems Penalty for Noncompliance Class 2 misdemeanor for a person to conceal, falsify, or refuse to provide the Commission any document, information, or access to any building or facility with the intent to mislead, impede, or interfere with the Commission's work.	"Any request made to an agency employee by Commission staff and any communication between Commission staff and an agency employee" is confidential. An "agency employee" is defined to include local government and public authority employees and officials.
