

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 160
Judiciary I Committee Substitute Adopted 4/29/03

Short Title: Delegations of Authority.

(Public)

Sponsors:

Referred to:

February 25, 2003

A BILL TO BE ENTITLED

AN ACT TO CLARIFY EXISTING DELEGATIONS OF AUTHORITY TO
COUNTIES AND CITIES AND TO CONFIRM FLEXIBILITY IN THE
EXECUTION OF THOSE DELEGATED AUTHORITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-3 is amended by adding a new subsection to read:

"(d) When any power, duty, function, privilege, or immunity is granted by general law and by a city charter, a city may freely elect to use any or all of those authorizations, either individually or in combination, and shall follow the procedures, if any, set forth for those authorities so chosen. In the case of a direct conflict or inconsistency between general law and a charter provision, the charter procedure shall control."

SECTION 2. G.S. 160A-4 reads as rewritten:

"§ 160A-4. Broad construction.

It is the policy of the General Assembly that the cities of this State should have adequate authority to execute the powers, rights, duties, functions, privileges, and immunities conferred upon them by law. ~~To this end, the provisions of this Chapter and of city charters~~ It is the intention of the General Assembly that the rule of strict construction known as Dillon's Rule shall not be applied to interpretations of the scope of the delegations of authority to cities. Rather, all grants of authority to cities shall be broadly construed and grants of power shall be construed to include any additional and supplementary powers that are reasonably necessary or expedient to carry them into execution and effect: Provided, that the exercise of such additional or supplementary powers shall not be contrary to State or federal law or to the public policy of this State.

Except where specifically provided otherwise, in carrying out their delegated powers, cities shall have the authority and flexibility to adopt reasonable definitions, procedures, rules, fee schedules, exceptions, and exemptions.

This section neither expands nor restricts the authority of cities to impose taxes pursuant to Article 9 of this Chapter or to finance public enterprises pursuant to Article

16 of this Chapter. This section neither expands nor restricts the purposes for which regulations may be adopted pursuant to Article 19 of this Chapter."

SECTION 3. G.S. 160A-177 reads as rewritten:

"§ 160A-177. Enumeration not exclusive.

The enumeration in this Article or other portions of this Chapter of specific powers to regulate, restrict or prohibit acts, omissions, ~~and or~~ conditions shall not be deemed to be exclusive or a limiting factor upon the general authority to adopt ordinances conferred on cities by G.S. 160A-174. Where a city is authorized to regulate, restrict, or prohibit acts, omissions, or conditions by this Chapter, a city may freely elect to use any or all of those authorizations, either individually or in combination; and shall follow the procedures for adoption set forth for those authorities so chosen. In the case of a direct conflict or inconsistency between a charter provision and other provision of law regarding the procedure to be employed for adoption, the charter procedure shall control."

SECTION 4. G.S. 160A-363 reads as rewritten:

"§ 160A-363. Supplemental powers.

(a) A city or its designated planning agency may accept, receive, and disburse in furtherance of its functions any funds, grants, and services made available by the federal government and its agencies, the State government and its agencies, any local government and its agencies, and any private and civic sources. Any city, or its designated planning agency with the concurrence of the council, may enter into and carry out contracts with the State and federal governments or any agencies thereof under which financial or other planning assistance is made available to the city and may agree to and comply with any reasonable conditions that are imposed upon such assistance.

(b) Any city, or its designated planning agency with the concurrence of the council, may enter into and carry out contracts with any other city, county, or regional council or planning agency under which it agrees to furnish technical planning assistance to the other local government or planning agency. Any city, or its designated planning agency with the concurrence of its council, may enter into and carry out contracts with any other city, county, or regional council or planning agency under which it agrees to pay the other local government or planning agency for technical planning assistance.

(c) Any city council is authorized to make any appropriations that may be necessary to carry out any activities or contracts authorized by this Article or to support, and compensate members of, any planning agency that it may create pursuant to this Article, and to levy taxes for these purposes as a necessary expense.

(d) A city may elect to combine any of the ordinances authorized by law into a unified ordinance. Unless expressly provided otherwise, a city may apply any of the definitions and procedures authorized by law to any or all aspects of such a unified ordinance and may employ any organizational structure, board, commission, or staffing arrangement authorized by law to any or all aspects of such ordinance."

SECTION 5. Part 1 of Article 20 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-466. Revenue and expenditures for joint undertakings.

1 Where two or more units of local government are engaged in a joint undertaking,
2 they may enter into agreements regarding financing, expenditures, and revenues related
3 to the joint undertaking. Funds collected by any participating unit of government may
4 be transferred to and expended by any other unit of government in a manner consistent
5 with the agreement. An agreement regarding expenses and revenues may be of
6 reasonable duration not to exceed 99 years."

7 **SECTION 6.** Article 2 of Chapter 158 of the General Statutes is amended by
8 adding a new section to read:

9 **"§ 158-7.3. Interlocal agreements concerning economic development.**

10 (a) Any two or more units of local government may enter into contracts or
11 agreements to execute undertakings pursuant to Part 1 of Article 20 of Chapter 160A of
12 the General Statutes, under which each participating local government agrees to provide
13 resources for the development of an industrial or commercial park or industrial or
14 commercial site pursuant to G.S. 158-7.1. In consideration for that participation, the unit
15 or units in which the park or site is located may agree to place the proceeds from some
16 or all property taxes levied on the park or site into a common fund or transfer those
17 proceeds to a nonprofit corporation or other entity. The proceeds placed into the
18 common fund or transferred to the other entity may then be distributed among the
19 participating local governments as provided in the contract or agreement.

20 (b) Any undertaking entered into pursuant to this section may be for that period
21 that is agreed to by the participating local governments, up to a maximum of 40 years.

22 (c) Any undertaking entered into pursuant to this section is binding upon each
23 participating local government for the duration of the contract or agreement. Any
24 participating local government may bring an action to specifically enforce the contract
25 or agreement."

26 **SECTION 7.** G.S. 153A-4 reads as rewritten:

27 **"§ 153A-4. Broad construction.**

28 It is the policy of the General Assembly that the counties of this State should have
29 adequate authority to exercise the powers, rights, duties, functions, privileges, and
30 immunities conferred upon them by law. ~~To this end, the provisions of this Chapter and~~
31 ~~of local acts~~ It is the intention of the General Assembly that the rule of strict construction
32 known as Dillon's Rule shall not be applied to interpretations of the scope of the
33 delegations of authority to counties. Rather all grants of authority to counties shall be
34 broadly construed and grants of power shall be construed to include any additional and
35 supplemental powers that are reasonably necessary or expedient to the exercise of the
36 power. Provided, that the exercise of such additional or supplementary powers shall not
37 be contrary to State or federal law or to the public policy of this State.

38 Except where specifically provided otherwise, in carrying out their delegated
39 powers, counties shall have the authority and flexibility to adopt reasonable definitions,
40 procedures, rules, fee schedules, exceptions, and exemptions.

41 This section neither expands nor restricts the authority to impose taxes pursuant to
42 Article 7 of this Chapter or to finance public enterprises pursuant to Article 15 of this
43 Chapter. This section neither expands nor restricts the purposes for which regulations
44 may be adopted pursuant to Article 18 of this Chapter."

1 **SECTION 8.** G.S. 153A-124 reads as rewritten:

2 "**§ 153A-124. Enumeration not exclusive.**

3 The enumeration in this Article or other portions of this Chapter of specific powers
4 to define, regulate, prohibit, or abate acts, omissions, or conditions is not exclusive, nor
5 is it a limit on the general authority to adopt ordinances conferred on counties by G.S.
6 153A-121. Where a county is authorized to regulate, restrict, or prohibit acts, omissions,
7 or conditions by this Chapter, by other general law, or by local act, a county may freely
8 elect to use any or all of those authorizations, either individually or in combination, and
9 shall follow the procedures for adoption set forth for those authorities so chosen."

10 **SECTION 9.** G.S. 153A-322 reads as rewritten:

11 "**§ 153A-322. Supplemental powers.**

12 (a) A county or its designated planning agency may accept, receive, and disburse
13 in furtherance of its functions funds, grants, and services made available by the federal
14 government or its agencies, the State government or its agencies, any local government
15 or its agencies, and private or civic sources. A county, or its designated planning agency
16 with the concurrence of the board of commissioners, may enter into and carry out
17 contracts with the State or federal governments or any agencies of either under which
18 financial or other planning assistance is made available to the county and may agree to
19 and comply with any reasonable conditions that are imposed upon the assistance.

20 (b) A county, or its designated planning agency with the concurrence of the
21 board of commissioners, may enter into and carry out contracts with any other county,
22 city, regional council, or planning agency under which it agrees to furnish technical
23 planning assistance to the other local government or planning agency. A county, or its
24 designated planning agency with the concurrence of the board of commissioners, may
25 enter into and carry out contracts with any other county, city, regional council, or
26 planning agency under which it agrees to pay the other local government or planning
27 agency for technical planning assistance.

28 (c) A county may make any appropriations that may be necessary to carry out an
29 activity or contract authorized by this Article, by Chapter 157A, or by Chapter 160A,
30 Article 19 or to support, and compensate members of, any planning agency that it may
31 create or designate pursuant to this Article.

32 (d) A county may elect to combine any of the ordinances authorized by law into a
33 unified ordinance. Unless expressly provided otherwise, a county may apply any of the
34 definitions and procedures authorized by law to any or all aspects of such a unified
35 ordinance and may employ any organizational structure, board, commission, or staffing
36 arrangement authorized by law to any or all aspects of such ordinance."

37 **SECTION 10.** This act is effective when it becomes law.