



HOUSE BILL 1023: Municipal Service Districts/Statutory Changes.

2015-2016 General Assembly

Committee:		Date:	July 27, 2016
Introduced by:		Prepared by:	Nicholas Giddings Staff Attorney
Analysis of:	S.L. 2016-8		

OVERVIEW: *S.L. 2016-8 requires additional accounting of certain contractors of cities with respect to municipal service districts, requires that an ordinance to establish a municipal service district be adopted at two separate meetings of the city council, and establishes a process by which property owners may petition for creation or reduction of a municipal service district. This act was recommended by the Legislative Research Commission Committee on Municipal Service Districts.*

This act became effective June 1, 2016, and applies to contracts entered into on or after that date.

CURRENT LAW: A city may establish a service district by following these procedural requirements:

1. Prepare a report on the proposed district containing the following:
 - o A map of the proposed district, showing its proposed boundaries.
 - o A statement attesting that the proposed district is in need of one or more of the authorized functions or services to a demonstrably greater extent than the rest of the city and meets other required statutory standards.
 - o A plan for providing one or more of the authorized functions or services in the proposed district.
2. Make the report available for public inspection in the city clerk's office at least 4 weeks before holding a public hearing on establishing the district.
3. Publish notice that a public hearing will be held on establishing the district at least 1 week before the date of the hearing, and mail notice to all property owners in the proposed district at least 4 weeks before the date of the hearing.
4. Hold a public hearing on establishing the district.
5. Adopt a resolution establishing the district to take effect at the beginning of a future fiscal year, July 1st.

Upon finding that there is no longer a need to include a tract or parcel of land within a particular municipal service district, or that there is no longer a need for an entire municipal service district, the city council may, by resolution, redefine or abolish a service district after a public hearing for which notice is published at least once, but not less than 1 week before the date of the public hearing. The removal of any tract or parcel of land or the abolition of an entire district must take effect at the end of a fiscal year, June 30th.

BILL ANALYSIS: S.L. 2016-8 does all of the following:

1. Requires an ordinance, rather than a resolution,¹ be adopted to establish a municipal service district or to amend the boundaries of an existing municipal service district.

¹ A resolution generally states a position or policy of the local unit whereas an ordinance is a local law that usually regulates persons or property and usually relates to a matter of a general and permanent nature.

Karen Cochrane-Brown
Director



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Division
919-733-2578

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2. Requires the ordinance be passed at two city council meetings before it is adopted. The action may be taken at a regular meeting, special meeting, or emergency meeting of the city council.
3. Requires the appropriate accounting component of the contract between the city and any private agency administering a municipal service district to include the following information with respect to each subcontractor:
 - a. Name.
 - b. Location.
 - c. Purpose.
 - d. Amount paid.
4. Establishes a process by which the property owners may petition the city council for creation of a municipal service district. The city may establish a policy to hear such petitions on a periodic basis, no less than once per year. The petition is to contain all of the following:
 - a. The names, addresses, and signatures of the real property owners within the proposed area.
 - b. A description of the proposed area.
 - c. A detailed statement of the services, facilities, or functions listed in G.S. 160A-536 (reasons for creating a municipal service district) that would serve as the basis for establishing the proposed district.
5. Establishes a process by which a property owner may request to be excluded from the geographic boundaries of a municipal service district upon its creation or after the municipal service district is established. The property owner is to submit a written request for exclusion on the basis that the tract or parcel is not in need of the services, facilities, or functions of the district to a demonstrably greater extent than the remainder of the city and may include any other information the property owner deems relevant. If the city council finds that the property is not in need of the services, facilities, or functions of the district to a demonstrably greater extent than the remainder of the city, the city council may, by ordinance, exclude the tract or parcel from the municipal service district.

EFFECTIVE DATE: This act became effective June 1, 2016, and applies to contracts entered into on or after that date.

BACKGROUND: The North Carolina Constitution generally requires that a municipality's or a county's property tax rate be uniform throughout the unit, meaning that all property is taxed at the same rate throughout the jurisdiction.² However, the Constitution also carves out an exception to this requirement. The General Assembly is authorized to permit municipalities and counties to define special service districts within their jurisdiction, and to levy additional taxes in those areas to provide services or facilities that are not offered throughout the unit or that are offered at a lower level in the rest of the unit.³

The General Assembly has enacted a process under Article 23 of Chapter 160A for cities to establish municipal service districts. A municipal service district is a defined geographic area within a municipality in which the city council levies an additional property tax in order to provide extra services to that defined geographic area. A municipal service district is not a separate government; rather it is a mechanism whereby a city raises revenue from property owners to pay for services or projects that most directly benefit from those services or projects.

² Article V, Sec. 2(2).

³ Article V, Sec. 2(4).

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

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

There are a few additional authorized purposes for certain municipalities: conversion of private residential streets to public streets, subject to several prerequisites and restrictions and general preservation of the character of an historic district.⁴

Once a municipal service district is established, the city council may levy an ad valorem property tax each fiscal year against all property located in the geographic area of the municipal service district.⁵ The city council may alter the district tax rate each year, or opt not to levy the tax in a particular fiscal year without abolishing the district. There is no specific limit on the amount of a municipal service district tax rate. However, a service district tax, when added to the unit's ad valorem property tax rate(s) may not exceed \$1.50 per \$100 valuation, unless the portion of the rate in excess of the limit is submitted to and approved by a majority of the qualified voters in the district. For all municipal service districts, the city is to develop long-range plans and goals, set the tax rate in accordance with those plans and goals, and use the moneys collected for the purposes set forth in those plans and goals.

Once a city levies a municipal service district tax, it must "provide, maintain, or let contracts for the services for which the residents of the district are being taxed within a reasonable time, not to exceed one year, after the effective date of the definition of the district."⁶ For municipal service districts created for historical districts, downtown revitalization, and urban area revitalization, the city must comply with all of the following when contracting with private agencies:

- Prior to entering into the contract the city must:
 - Solicit input from the residents and property owners as to the needs of the service district.
 - Use a bid process to determine which private agency is best suited to achieve the needs of the service district. If the city determines that a multi-year contract with a private agency is in the best interest of the city and the service district, the city may enter into a multiyear contract not to exceed 5 years in length.
 - Hold a public hearing.
- The city must require the private agency to report annually to the city, by presentation in a city council meeting and in a written report, regarding the needs of the service district, completed projects, and pending projects.

⁴ Cities located primarily in a county that has a population of 750,000 or more and also located in an adjacent county with a population of 250,000 or more and to cities located primarily in a county that has a population of 250,000 or more and also located in an adjacent county that has a population of 750,000 or more may establish one or more municipal service districts to fund costs related to the conversion of private residential streets to public streets, subject to several prerequisites and restrictions. And, in 1987, the General Assembly authorized those cities having a population in excess of 150,000 which are located in counties having two or more cities each of which has a population in excess of 60,000; those cities where, at the time of creation of the district, the city had a population of not less than 20,000 nor more than 25,000, was not a county seat, and was located in two counties one of which had eight incorporated municipalities; and those cities where, at the time of creation of the district, the city is located in a county with a population of more than 100,000, which county has an area of less than 250 square miles to establish one or more municipal service districts to fund costs related any service, facility, or function which the municipality may by law provide in the city that generally preserve the character of an historic district which, at the time of its creation, had the same boundaries as an historic district created under Part 3A of Article 19 of Chapter 160A of the General Statutes.

⁵ G.S. 160A-542 and G.S. 160A-44.

⁶ G.S. 160A-540.

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- The contract is to specify the scope of services to be provided by the private agency. Any changes to the scope of services must be approved by the city council.

Erika Churchill substantially contributed to this summary.