

April 10, 2003

**H 1064. DELEGATIONS OF AUTHORITY. TO CLARIFY EXISTING DELEGATIONS OF AUTHORITY TO COUNTIES AND TO CONFIRM FLEXIBILITY IN THE EXECUTION OF THOSE DELEGATED AUTHORITIES.** As title indicates. Specific changes and clarifications include:

Broad construction. Amends GS 160A-4 and 153A-4 (providing that city and county powers, respectively, should be broadly construed) to specify the intention of the General Assembly that the rule of strict construction known as Dillon's Rule is not to be applied to interpretations of the scope of the delegations of authority to cities or counties. Adds new provision to both sections specifying that cities and counties respectively are to have the authority and flexibility to adopt reasonable definitions, procedures, rules, fee schedules, exceptions, and exemptions in carrying out their delegated powers, except where specifically provided otherwise. Makes other minor wording changes to make the two statutes almost identical. Specifies that sections amended neither expands nor restricts authority to impose taxes, to finance public enterprises or purposes for which regulations may be adopted.

Preemption. Amends GS 160A-174(b) (ordinance preemption under city general ordinance-making power) to specify that an ordinance is preempted if it purports to regulate a field for which a state or federal law expressly states a legislative intent to provide a complete and integrated regulatory scheme to the exclusion of local regulation (was, "clearly shows," with no requirement of express language in the state or federal law). Adds new GS 153A-121(d), to clarify that same preemption rules apply to counties.

Sources of authority to act. Amends GS 160A-177 and 153A-124 to clarify further that cities and counties, respectively, are not limited to a single source of authority in enacting police power ordinances. Amendment specifies that where there are multiple sources of authority to act, a city or county may freely elect to use any or all sources, either individually or in combination. Requires that when a city or county makes such an election, it must follow the procedures for each of the authorities elected.

City charters. Adds new GS 160A-3(d) to specify that when there is authority to act in general law and in the charter of a city, the city may freely elect to use any or all sources, either individually or in combination. Requires that when a city or county makes such an election, it must follow the procedures for each of the authorities elected. In case of conflict between the two, the charter provision controls. Makes similar change giving charter priority over general law in GS 160A-177.

Unitary development ordinances. Adds new GS 160A-363(d) and 153A-322(d) (supplemental city and county powers, respectively, under the planning and development regulation laws) to specifically provide that a city or county, respectively, may elect to combine any of the ordinances authorized by law into a unified ordinance. Authorizes a city or county, unless expressly provided otherwise, to apply any of the definitions and procedures authorized by law to any or all aspects of such an ordinance, and to use any organizational structure, board, commission, or staffing arrangement authorized by law with respect to any or all aspects of the ordinance.

**Intro. by L. Allen.**

Ref. to Loc. Gov. II

GS 153A, 158, 160A