COUNTY HOME RULE

&

LOCAL LEGISLATION

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I. INTRODUCTION

Article III, Section I, Paragraph I of the Constitution provides that the 'legislative power' of the state is vested in the General Assembly. The term 'legislative power' refers to the ability to enact law. In addition to legislative power being vested in the legislature, Article III, Section VI, Paragraph III of the Constitution prohibits the General Assembly from abridging or limiting its powers.

The constitution provides for two basic types of law. The first type of law is general law. Under Article III, Section VI, Paragraph IV(a), a general law has uniform operation across the state and affects matters on a state-wide basis. These laws are compiled in the Official Code of Georgia Annotated (O.C.G.A).

The second type of law is a local law. A local law typically affects only a single political subdivision such as a county. Under Article III, Section VI, Paragraph IV(a), a local law typically cannot be enacted in any case for which provision has been made by existing general law.

There are two basic ways of enacting local laws which affect a specific county. The first is by home rule ordinance of a county and the second is by local law of the General Assembly.

II. COUNTY HOME RULE

A. Introduction.

The term "home rule" is a term of art that has several meanings.

Many people use it as another way to describe the general concept of 'local control'.

Its most specific and important meaning however, refers to the power of a county to govern its own affairs in accordance with the county home rule powers granted by the state Constitution.

County home rule in Georgia developed as a means of authorizing local self-government by delegating (or granting) certain state legislative powers to such local governments. Such delegation is an exception to the constitutional mandate that legislative power resides only in the General Assembly and the constitutional limitation that the General Assembly shall not abridge its powers.

B. The State Constitution.

The power of county home rule is set forth in Article IX, Section II, Paragraph I of the Constitution and it reads follows (quoted text in italics):

Paragraph I. Home rule for counties.

(a) The governing authority of each county shall have legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government for which no provision has been made by general law and which is not inconsistent with this Constitution or any local law applicable thereto. Any such local law shall remain in force and effect until amended or repealed as provided in subparagraph (b). This, however, shall not restrict the authority of the General Assembly by general law to further define this power or to broaden, limit, or otherwise regulate the exercise thereof. The General Assembly shall not pass any local law to repeal, modify, or supersede any action taken by a county governing authority under this section except as authorized under subparagraph (c) hereof.

(b) Except as provided in subparagraph (c), a county may, as an incident of its home rule power, amend or repeal the local acts applicable to its governing authority by following either of the procedures hereinafter set forth:

(1) Such local acts may be amended or repealed by a resolution or ordinance duly adopted at two regular consecutive meetings of the county governing authority not less than seven nor more

than 60 days apart. A notice containing a synopsis of the proposed amendment or repeal shall be published in the official county organ once a week for three weeks within a period of 60 days immediately preceding its final adoption. Such notice shall state that a copy of the proposed amendment or repeal is on file in the office of the clerk of the superior court of the county for the purpose of examination and inspection by the public. The clerk of the superior court shall furnish anyone, upon written request, a copy of the proposed amendment or repeal. No amendment or repeal hereunder shall be valid to change or repeal an amendment adopted pursuant to a referendum as provided in (2) of this subparagraph or to change or repeal a local act of the General Assembly ratified in a referendum by the electors of such county unless at least 12 months have elapsed after such referendum. No amendment hereunder shall be valid if inconsistent with any provision of this Constitution or if provision has been made therefor by general law.

(2) Amendments to or repeals of such local acts or ordinances, resolutions, or regulations adopted pursuant to subparagraph (a) hereof may be initiated by a petition filed with the judge of the probate court of the county containing, in cases of counties with a population of 5,000 or less, the signatures of at least 25 percent of the electors registered to vote in the last general election; in cases of counties with a population of more than 5,000 but not more than 50,000, at least 20 percent of the electors registered to vote in the last general election; and, in cases of a county with a population of more than 50,000, at least 10 percent of the electors registered to vote in the last general election, which petition shall specifically set forth the exact language of the proposed amendment or repeal. The judge of the probate court shall determine the validity of such petition within 60 days of its being filed with the judge of the probate court. In the event the judge of the probate court determines that such petition is valid, it shall be his duty to issue the call for an election for the purpose of submitting such amendment or repeal to the registered electors of the county for their approval or rejection. Such call shall be issued not less than ten nor more than 60 days after the date of the filing of the petition. He shall set the date of such election for a day not less than 60 nor more than 90 days after the date of such filing. The judge of the probate court shall cause a notice of the date of said election to be published in the official organ of the county once a week for three weeks immediately preceding such date. Said notice shall also contain a synopsis of the proposed amendment or repeal and shall state that a copy thereof is on file in the office of the judge of the probate court of the county for the purpose of examination and inspection by the public. The judge of the probate court shall furnish anyone, upon written request, a copy of the proposed amendment or repeal. If more than one-half of the votes cast on such question are for approval of the amendment or repeal, it shall become of full force and effect; otherwise, it shall be void and of no force and effect. The expense of such election shall be borne by the county, and it shall be the duty of the judge of the probate court to hold and conduct such election. Such election shall be held under the same laws and rules and regulations as govern special elections, except as otherwise provided herein. It shall be the duty of the judge of the probate court to canvass the returns and declare and certify the result of the election. It shall be his further duty to certify the result thereof to the Secretary of State in accordance with the provisions of subparagraph (g) of this Paragraph. A referendum on any such amendment or repeal shall not be held more often than once each year. No amendment hereunder shall be valid if inconsistent with any provision of this Constitution or if provision has been made therefor by general law.

In the event that the judge of the probate court determines that such petition was not valid, he shall cause to be published in explicit detail the reasons why such petition is not valid; provided,

however, that, in any proceeding in which the validity of the petition is at issue, the tribunal considering such issue shall not be limited by the reasons assigned. Such publication shall be in the official organ of the county in the week immediately following the date on which such petition is declared to be not valid.

(c) The power granted to counties in subparagraphs (a) and (b) above shall not be construed to extend to the following matters or any other matters which the General Assembly by general law has preempted or may hereafter preempt, but such matters shall be the subject of general law or the subject of local acts of the General Assembly to the extent that the enactment of such local acts is otherwise permitted under this Constitution:

(1) Action affecting any elective county office, the salaries thereof, or the personnel thereof, except the personnel subject to the jurisdiction of the county governing authority.

(2) Action affecting the composition, form, procedure for election or appointment, compensation, and expenses and allowances in the nature of compensation of the county governing authority.

(3) Action defining any criminal offense or providing for criminal punishment.

(4) Action adopting any form of taxation beyond that authorized by law or by this Constitution.

(5) Action extending the power of regulation over any business activity regulated by the Georgia Public Service Commission beyond that authorized by local or general law or by this Constitution.

(6) Action affecting the exercise of the power of eminent domain.

(7) Action affecting any court or the personnel thereof.

(8) Action affecting any public school system.

(d) The power granted in subparagraphs (a) and (b) of this Paragraph shall not include the power to take any action affecting the private or civil law governing private or civil relationships, except as is incident to the exercise of an independent governmental power.

(e) Nothing in subparagraphs (a), (b), (c), or (d) shall affect the provisions of subparagraph (f) of this Paragraph.

(f) The governing authority of each county is authorized to fix the salary, compensation, and expenses of those employed by such governing authority and to establish and maintain retirement or pension systems, insurance, workers' compensation, and hospitalization benefits for said employees.

(g) No amendment or revision of any local act made pursuant to subparagraph (b) of this section shall become effective until a copy of such amendment or revision, a copy of the required notice

of publication, and an affidavit of a duly authorized representative of the newspaper in which such notice was published to the effect that said notice has been published as provided in said subparagraph has been filed with the Secretary of State. The Secretary of State shall provide for the publication and distribution of all such amendments and revisions at least annually.

C. How Does Home Rule Operate?

1. In General.

County home rule powers consist of two separate and distinct tiers of constitutional delegation of authority to counties: *basic ordinance power* and *power to amend or repeal certain local Acts of the General Assembly*.

2. Basic Ordinance Power.

The exercise of first tier delegation county home rule power under Article IX, Section I, Paragraph I(a) of the Constitution is the general legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to the property, affairs, and local government of the county. First tier delegation is **subservient and subordinate** to local Acts of the General Assembly.

3. Amend or Repeal Local Acts.

The exercise of second tier delegation county home rule under Article IX, Section I, Paragraph I(b) of the Constitution is the specific legislative power to amend or repeal local Acts of the General Assembly which apply to the county governing authority, *i.e.* the board of commissioners or a sole commissioner. Rather than being subservient and subordinate to state law, second tier delegation is power to **change** local Acts (local laws) of the General Assembly. Second tier delegation can be accomplished by either: the board of commissioners itself by complying with subparagraph (b)(1); or the people of the county using the petition and referendum method under subparagraph (b)(2).

(a) Home Rule by the Board of Commissioners.

There is an exact process that must be followed in order to **amend or repeal** a local Act by home rule action of the board of commissioners:

1) A home rule ordinance must be adopted at two regular consecutive meetings of the county governing authority not less than seven nor more than 60 days apart.
2) A notice containing a synopsis of the proposed amendment or repeal must be published in the official legal organ of the county once a week for three weeks within a period of 60 days immediately preceding the final adoption of the home rule ordinance. The notice must state that a copy of the proposed amendment or repeal is on file in the office of the superior court clerk for the purpose of examination and inspection by the public. The superior court clerk must furnish anyone, upon written request, a copy of the proposed amendment or repeal.
3) No amendment or repeal is valid for the purpose of changing or repealing EITHER: (a) a home rule action amendment adopted pursuant to the petition and referendum method; OR (b) a local Act of the General Assembly ratified in a referendum by the electors of such county UNLESS at least 12 months have elapsed after such referendum. {There is no similar, reciprocal restriction that applies to petition and referendum home rule ordinances.}
4) No amendment shall be valid if it inconsistent with any provision of the Constitution or if provision has been made therefor by general law.
5) No amendment or repeal can become effective until the following three items are filed with the Secretary of State: (a) a copy of the amendment or repeal; (b) a copy of the required notice of publication; and (c) an affidavit of a duly authorized representative of the newspaper in which such notice was published to the effect that said notice has been published properly.

(b) Home Rule by Petition and Referendum.

There is an exact process that must be followed by electors of the county in order to **amend or repeal** a local Act by home rule action through petition and referendum:

1) The process is initiated by filing a petition with the probate judge. It must contain a minimum number of signatures of electors registered to vote in the last general election based upon the population of the county (see quoted text on p. 3 for details).
2) The petition must specifically set forth the exact language of the proposed amendment or repeal.
3) The probate judge determines the validity of such petition within 60 days of its being filed.
4) If the probate judge determines that the petition is valid, the probate judge issues the call for a special election for the purpose of submitting such amendment or repeal to the registered electors of the county for their approval or rejection. The call must be issued not less than ten nor more than 60 days after the date of the filing of the petition.
5) If the probate judge determines that the petition is not valid, the probate judge must publish, in explicit detail, the reasons why. The publication must appear in the official organ of the county in the week immediately following the date on which such petition is declared to be invalid.

6) The probate judge sets the date of the special election for a day not less than 60 nor more than 90 days after the date of the filing of the petition and causes a notice of the special election date to be published in the official legal organ of the county once a week for three weeks immediately preceding such date.
7) The notice must contain a synopsis of the proposed amendment or repeal and must state that a copy is on file in the office of the probate judge for examination and inspection by the public. The probate judge must furnish anyone, upon written request, with a copy of the proposed amendment or repeal.
8) After the special election, if more than one-half of the votes cast on such question are for approval of the amendment or repeal, it shall become of full force and effect {BUT, see items 13 & 14 below}; otherwise, it shall be void and of no force and effect.
9) The expense of the special election is incurred by the county. It is the duty of the probate judge to hold and conduct the special election for a valid petition.
10) The special election is held under the same laws and rules and regulations as govern special elections, except as otherwise provided above.
11) It is the duty of the probate judge to canvass the returns and declare and certify the result of the special election and to certify the result of the special election to the Secretary of State.
12) A referendum on any such amendment or repeal cannot not be held more often than once each year.
13) No petition and referendum amendment shall be valid if inconsistent with any provision of this Constitution or if provision has been made therefor by general law.
14) No home rule amendment shall become effective until the following three items are filed with the Secretary of State: (a) a copy of the amendment or repeal; (b) a copy of the required notice of publication; and (c) an affidavit of a duly authorized representative of the newspaper in which such notice was published to the effect that the notice was published properly.

4. Examples of Home Rule Action.

Consider some examples of the extent of home rule power as it applies to a local Act of the General Assembly governing the board of county commissioners:

1) Could a county use a home rule ordinance to change the Act and provide a different manner of selecting a county attorney? Yes, that type of change would constitute an authorized amendment (*i.e.* it is not listed in the exceptions to home rule).
2) Could a county use a home rule ordinance to change the Act and eliminate all provisions about selecting a county attorney? Yes, that type of change would constitute an authorized repeal (*i.e.* it is not listed in the exceptions to home rule).
3) Could a county use a home rule ordinance to change the Act and provide a different manner of electing members of the board of commissioners? No, that type of change would constitute a prohibited amendment (*i.e.* it is listed in the exceptions to home rule).
4) Could a county use a home rule ordinance to replace the current, entire Act governing the board of commissioners with a brand-new comprehensive Act governing the board

of commissioners? No, that type of change would constitute a prohibited amendment (*i.e.* such an action would by necessity include multiple exceptions to home rule).

5) Could a county use a home rule ordinance to amend the local Act governing the county board of education? No, that type of change would constitute a prohibited amendment (*i.e.* such an action would be amending a local Act that does not pertain to the county governing authority and is listed in the exceptions to county home rule).

5. Matters Excluded from Home Rule.

Keep in mind that the constitution spells out specific EXCEPTIONS to the exercise of county home rule power, regardless of whether it is first tier or second tier. These exceptions are matters that are reserved to the General Assembly and include any action:

(1) Affecting any elective county office, the salaries thereof, or the personnel thereof, except the personnel subject to the jurisdiction of the county governing authority.

(2) Affecting the composition, form, procedure for election or appointment, compensation, and expenses and allowances in the nature of compensation of the county governing authority.

(3) Defining any criminal offense or providing for criminal punishment.

(4) Adopting any form of taxation beyond that authorized by law or by this Constitution.

(5) Extending the power of regulation over any business activity regulated by the Georgia Public Service Commission beyond that authorized by local or general law or by this Constitution.

(6) Affecting the exercise of the power of eminent domain.

(7) Affecting any court or the personnel thereof.

(8) Affecting any public school system.

Home rule also does not include the power to take any action affecting private or civil law governing private or personal relationships except as is incident to the exercise of an independent governmental power.

Trying to determine whether a matter falls under a home rule exception should not become an exercise in guesswork and the county attorney should ALWAYS be consulted!

6. Special Home Rule Authority.

There are two additional kinds of home rule authority that are delegated to counties under the constitution.

First, Article IX, Section II, Paragraph I (f) specifically provides that the board of commissioners is authorized to fix the salary, compensation, and expenses of those employed by the board. Additionally, the board is authorized to establish and maintain retirement or pension systems, insurance, workers' compensation, and hospitalization benefits for those employees. Prior to county home rule being placed in the constitution, these items were the subject of local constitutional amendments. Briefly, a local constitutional amendment (which is no longer permitted under the constitution) is an amendment to the constitution that applied only to a specific county.

Paragraph I(f) is part of the overall provision in the constitution that grants home rule authority to counties. The reason it is considered 'special' home rule authority is because Paragraph I(e) provides that NOTHING else in the entire home rule provision of the constitution "affects" this special power. This means that the power of the county is not subject to any of the procedural or other limits that apply to other home rule.

Second, Article IX, Section, II, Paragraph IV specifically provides that the board of commissioners can adopt plans and exercise the power of zoning. The General Assembly may adopt general laws establishing zoning procedures. Otherwise, it is prohibited from legislative activity regarding zoning. For example, the General Assembly could not use a local law to implement zoning in a county or to rezone property in a county.

III. LOCAL LEGISLATION

NOTE: This portion of the study explains matters that are reserved to local legislation and deals with the process of passing local legislation. The basic techniques and actual mechanics of drafting of local legislation as well as general legislation are treated in a separate study: *Bill Drafting Basics*.

A. In General.

The Constitution spells out some basic requirements for local legislation (that is, legislation which affects a specified political subdivision of the state as opposed to affecting the state in general).

First, Article III, Section V, Paragraph VIII allows the General Assembly to provide by law for procedures for considering local legislation. Interestingly, the General Assembly has never done so and has opted to handle local legislation through House and Senate rules.

Second, Paragraph VIII requires that the title of each local bill be read at least once before the bill is voted upon. It also prohibits a local bill from being voted upon on the same day it was introduced. The soonest day for a floor vote is the second day following the day of introduction.

Third, Article III, Section V, Paragraph IX requires the General Assembly to provide by law for the advertisement of notice if intent to introduce local bills. The legislature has complied with this mandate by enacting O.C.G.A. § 28-1-14 (discussed at length below).

While general bills that become law are compiled in the O.C.G.A., local bills that become law, as well as (tier two) home rule ordinances, are compiled annually in Volume II of the Georgia Laws.

B. Matters that Require Local Legislation.

County governing authorities have broad self-government powers through county home rule authority under Article IX, Section II, Paragraph I of the Constitution. However, certain laws must be passed by a local Act of the General Assembly. These laws fall into two categories.

First, any item that is listed in one of the eight exceptions to county home rule can be acted upon only by the General Assembly. (These items are discussed on page 8.)

Second, there are many other types of matters which do not fall within the list of county home rule exceptions, but which are reserved to local laws of the General Assembly under other specific provisions of the constitution and general laws. These matters include, but are not limited to:

1) Local homestead exemptions. Article VII, Section II, Paragraph II(2) provides that only the General Assembly can enact a homestead exemption. See Section C. below.

2) New hotel-motel tax rate changes over 5%. O.C.G.A. § 48-13-51(b) requires ratification of such increases by local Act.

3) Activation of Redevelopment Powers. Article IX, Section II, Paragraph VII and O.C.G.A. § 36-44-1, *et seq.* require as a local Act conditioned on approval in a referendum as a condition precedent to exercising such powers.

4) Community Improvement Districts. Article IX, Section VII, Paragraph I and O.C.G.A. § 10-5-1, *et seq.* require as a local Act as the sole method of creating such districts.

5) Providing the manner of succession to fill a vacancy in office. If the local Act does not specify, the procedure in O.C.G.A. § 36-5-21 must be followed.

If a matter is listed under one of the exceptions to constitutional county home rule, or, under an exception elsewhere in the constitution or general law, then it must be dealt with by local Act of the General Assembly (local legislation).

C. Homestead Exemptions.

Under Article VII, Section II, Paragraph I, exemptions from ad valorem taxation are void unless done in exact accordance with the constitution.

Ad valorem tax exemptions require an Act of the legislature passed with a 2/3's vote of each chamber of the legislature and ratified in a statewide referendum. Article VII, Section II, Paragraph II specifies an exception to this mandate and allows the legislature, but NOT a county, city, or school board itself, to adopt a local Act conditioned on approval in a local referendum to provide a homestead exemption from county, city, or school taxes. The 2/3's vote requirement also applies to such local Acts.

The legislature routinely places local Acts for homestead exemptions on a separate local consent calendar to avoid mixing those bills with other bills that do not require a 2/3 vote. Further, legislative counsel places canned language in each such local bill to serve as a reminder of the requirement:

> In accordance with the requirements of Article VII, Section II, Paragraph II(a)(1) of the Constitution of the State of Georgia, this Act shall not become law unless it receives the requisite two-thirds' majority vote in both the Senate and the House of Representatives.

With regard to who can ask for such legislation, local legislative delegations frequently have their own rules on how they address local bills. For example, some will only take action upon the adoption of a unanimous resolution by the county commission or school board. Some have no such rules. It just depends on what the local delegation chooses to do. See Section D. 2. below.

D. The Process for Local Legislation.

1. Rules of the House and Senate.

The process for local legislation, as well as general legislation, in controlled in many aspects by specific rules of each chamber of the state legislature. It is very important to keep in mind that almost any rule of the House or Senate can be waived or suspended.

2. Sponsorship.

The first step necessary to pass a local Act is that a member of the legislative delegation representing the county must agree to sponsor the local bill. A local legislative delegation is composed of the members of the House or Senate whose districts are wholly or partially in the county. A sponsor of a bill is a person who agrees to sign a bill and often is the person who introduces the bill in the House or the Senate.

It is important to note that local legislation can be introduced in either the House of Representatives or the Senate.

Legislative delegations each have their own formal or informal rules for bill sponsorship. Some require a condition precedent of a unanimous resolution of the board of commissioners requesting the local bill. Others only require a signed letter from the board of commissioners requesting the local bill. A legislative delegation is not required to have any sponsorship threshold standards. The board of commissioners should become familiar with the applicable sponsorship requirements. Similar requirements typically apply to the school board and to cities.

It is important to keep in mind that a member of the General Assembly has the plenary authority to introduce a local bill on any matter that he or she wishes regardless of whether it has been requested or not by the board of commissioners. A member of a local delegation isn't necessarily bound by such requirements, at least as far as getting such a bill introduced. As a practical matter, however, if the other members of the local delegation choose to enforce their sponsorship rules, the bill may end up not going anywhere.

3. When is a Notice Required to be Published?

In order to introduce local legislation, O.C.G.A. § 28-1-14(a) requires that a notice of intent must be posted in the county legal organ. If the notice is run prior to the convening of the legislative session, it cannot be more than 60 days prior to the date of the convening of the legislative session. If the session has convened, then whatever week the notice runs, the bill cannot be introduced until Monday of the calendar week following the week in which it was published. For example, if the notice is published on a Saturday (the last day of a calendar week) the bill could be introduced in two days on the immediately following Monday since Sunday is the first day of a calendar week.

4. Who Can Publish a Notice?

Either the county or the bill sponsor can post the ad in the legal organ. The notice needs to identify the subject matter of the bill to be introduced and should reference the specific Session of the General Assembly in which the local bill will be introduced.

5. What Must a Notice Contain?

Careful consideration should be given to how the notice is to be structured. The notice could be of a general nature or it could be quite specific. O.C.G.A. § 28-1-14 is silent regarding the substantive contents of the notice. The courts have been generous in their holdings on the actual contents of the notice and have ruled that no more information is needed than what is stated in the title (or caption) of the bill, and, that a broadly worded notice was sufficient.

The structure of a notice matters because it will control whether or not changes can be made to the bill after it has been introduced.

6. General Type of Notice.

A **general** notice would be something along the lines of the following EXAMPLE:

"NOTICE OF INTENTION TO INTRODUCE LOCAL LEGISLATION

Notice is given that there will be introduced at the regular 20__ session of the General Assembly of Georgia a bill to amend an Act creating the board of commissioners of X County, approved September 11, 1911, Ga. L. 1911, p. 11; and for other purposes.

_____".

There is an advantage to crafting a notice in such a general way. Because it is broad in scope, it would allow the bill to be amended during the legislative process to include other amendments to the board of commissioners' law. However, this very thing could also be a disadvantage. Suppose the county, or the bill's sponsor, did not want to allow any other amendments to the bill? If that is desired, they could not use the ad to block the additional changes.

Additionally, this broad notice could be used for other separate pieces of legislation that pertained to that same local Act without the necessity of running a new notice.

A final point to note is that while a general notice does provide some 'process' advantages to the county, it is less helpful to members of the public in that it can fail to provide meaningful assistance in describing exactly what changes are being contemplated by the legislature.

7. Specific Type of Notice.

A **specific** notice would be something along the lines of the following EXAMPLE:

"NOTICE OF INTENTION TO INTRODUCE LOCAL LEGISLATION

> Notice is given that there will be introduced at the regular 20__ session of the General Assembly of Georgia a bill to amend an Act creating the board of commissioners of X County, approved September 11, 1911, Ga. L. 1911, p. 11, so as to change the composition of the commissioner districts; and for other purposes.
>
> _____".

There is an advantage to crafting a notice in such a specific way. Because it is narrow in scope, it would NOT allow the bill to be amended during the legislative process to include other amendments to the board of commissioners' law. In the case of the above example, changes needed for reapportionment would be allowed, however, changes to the salaries of the commissioners would be beyond the scope of the notice. However, this limitation could also be a disadvantage. Suppose the county, or the bill's sponsor, DID want to allow any other amendments to the bill? If that is desired, they could NOT because the notice was so narrowly drawn.

A new notice and a new bill would then be needed for the additional changes. This could be a problem in the latter part of the session because of the requirement of not being able to introduce the bill until the calendar week after the notice had run.

A final point to note is that while a specific notice does not provide some 'process' advantages to the county, it is helpful to members of the public in that it can provide meaningful assistance in describing exactly what changes are being contemplated by the legislature.

8. Notice Timeframe and Crossover Day.

The shortest timeframe that it takes to pass a local bill is five days, therefore it is necessary to plan accordingly. This timeframe is unforgiving and may only be met if NOTHING goes wrong. As a practical matter, any number of things could go wrong so waiting until the last moment is NEVER a good idea.

'Crossover Day' is the last day in a legislative session on which a bill that has been introduced in one chamber must pass that chamber and be read for the first time in the other chamber. The rules of the House do not actually provide for a crossover day. Instead, the House has typically recognized the same day as the Senate. Under Senate Rule 3-1.2(c), crossover day must be on a day not earlier than the 25th legislative day, as determined by agreement of the Senate and the House. It is important to note that crossover day applies only to general bills and DOES NOT APPLY to local bills.

9. What Happens to the Notice?

O.C.G.A. § 28-1-14 requires that a copy of the notice and an affidavit stating that the notice was published in compliance with the Code section are attached to and become part of the bill. and is printed at the end of each passed local bill in Volume II of Georgia Laws.

10. Additional Notice to the County Board of Commissioners.

O.C.G.A. § 28-1-14 requires a second type of notice when a local bill amends the local Act governing the county board of commissioners.

In such a case, a copy of the published notice of intent to introduce local legislation must be mailed, faxed, or otherwise provided to the board of commissioners. It must be so provided during the calendar week when the notice so published or during the seven days immediately following the publication date. An affidavit prepared by the author of the bill stating that the notice was duly provided to the board of commissioners must be attached to the bill.

This second type of notice applies ONLY to bills that amend the county commission local Act DOES NOT apply to other types of local laws.

11. Local Courtesy.

The legislative process of considering local bills in the House and the Senate is conducted under a custom and tradition know as ‘local courtesy’. When a local bill has the support of a majority of the House members and Senators whose districts are wholly or partially in the county, the local bill is typically approved without opposition. In other words, if a local delegation agrees to the bill, and since it affects only their county, other members of the House and Senate will defer to that judgement so that the same treatment will be given to their local bills.

It is important to remain mindful that local courtesy is MERELY custom and tradition. It is NOT governed by statute or by rules of the House or Senate. Local courtesy cannot be enforced if House or Senate members decide, for political or other reasons, to challenge a local measure.

12. Local Bills Treated as General Bills.

A local bill CANNOT be converted into a general bill and a general bill CANNOT be converted into a local bill. However, there are some local bills that are TREATED procedurally as general bills. Regardless of how a local bill is treated under House or Senate rules, it REMAINS a local bill.

An example of this concept is found under House Rule 50. Any local bill relating to or affecting any of the items below is, for purposes of consideration in the House, not deemed a local bill but rather is treated as a general bill:

1) political partisanship of any elected office;
2) state revenues;
3) general taxation;
4) pari-mutual wagering;
5) alcoholic beverages;
6) water resources; or
7) hazardous wastes.

When a local bill is treated as a general bill it may be assigned to any committee, may be required to be read three times instead of once, and is placed on the general calendar for a separate floor vote instead of on the local consent calendar.

13. Local Bills in the House.

Most local bills that are introduced in the House are assigned to the Committee on Intragovernmental Coordination. House Rule 18.1 allows the majority of the members of a local legislative delegation to file with the chair of that committee their own rules as to the number of Representatives who must sign a proposed local bill.

If a legislative delegation files such rules, then the Committee on Intragovernmental Coordination is required to observe the signature rules.

If a legislative delegation does not file such rules, then House Rule 18.1 permits two outcomes:

1) the Committee on Intragovernmental Coordination "shall not" favorably report a local bill unless ALL of the members of a local legislative delegation have signed the bill; **OR**

2) the Committee on Intragovernmental Coordination can vote to pass the local bill.

The first outcome above is inartfully drafted as it contains the words "shall not" which would seem to indicate that if local rules are not filed, then the 100% signature requirement applies. Prior to 2023, the first outcome was the sole outcome. The intended result would certainly be clearer if the sentence had been constructed as an 'either' 'or' proposition. Instead, the word 'or' was tacked on and a new second outcome was added.

The second outcome above results from a revision to the Rule which occurred when the House Rules for 2023 were adopted by HR 4. This revision is important as it now allows the Committee on Intragovernmental Coordination to bypass local courtesy by conducting hearings on proposed local bills and voting on Do Pass recommendations for local bills **IF** the local

delegation has not filed signature rules with the committee. Consequently, if a local legislative delegation wants to ensure that local courtesy is followed, then it would need to be certain that the appropriate local rules are filed with the chair of the Committee on Intragovernmental Coordination

It is important to note that the Speaker (or other presiding officer such as the Speaker Pro Tempore) oversees assigning bills to committee and the Speaker (or other presiding officer) has complete discretion in the matter of assignment. This is important because, under House Rule 18.1, the local legislative delegation signing rules as well as the other requirements ONLY apply to local bills that are assigned to the Committee on Intragovernmental Coordination. If a local bill is assigned to a different committee, then, by its own terms, House Rule 18.1 does not apply. However, the committee chair would have the discretion to comply with House Rule 18.1 even though not required to do so.

14. Local Bills in the Senate.

Most local bills that are introduced in the Senate are assigned to the Committee on State and Local Government Operations. Unlike in the House, Senate Rule 3-2.2 does NOT allow the majority of the members of a local legislative delegation to file with the committee chair their own rules as to the number of Senators who must sign a proposed local bill.

Under Senate Rule 3-2.2, the Committee on State and Local Government Operations CANNOT favorably report a local bill unless a majority the Senators of a local legislative delegation have signed the bill.

It is important to note that the Presiding Officer (whether the Lt. Governor or the President Pro Tempore) oversees assigning bills to committee and has complete discretion in the matter of assignment. In fact, the practice is specifically recognized under Senate Rule 3-2.1(c). This is important because, under Senate Rule 3-2.2, the majority signature requirement only applies to local bills that are assigned to the Committee on State and Local Government Operations. If a local bill is assigned to a different committee, the committee chair would have the discretion to comply with Senate Rule 3-2.2 even though not required to do so.

15. House Local Consent Calendar.

If the House committee staff finds that a local bill has met the technical requirements (advertising, etc.) and has been signed by the requisite number of House members, the committee conducts a vote on the bill. If the vote is in favor of the bill, it is favorably reported and placed on the local consent calendar.

The historical practice in the House is that local bills are placed on the local consent calendar. There is no House rule governing this however. A House member may request that a

local bill be removed. In such a case, the 'challenged' local bill is given a separate floor vote after bills on the local consent calendar have received a vote as a whole.

16. Senate Local Consent Calendar.

Senate rules do not contain any specific requirement that committee staff find that a local bill has met the technical requirements (advertising, etc.) and has been signed by the requisite number of Senators. Under Senate Rule 3-2.2(c), if the signature requirement is met, the committee conducts a vote on the bill. If the vote is in favor of the bill, the local bill is favorably reported and placed on the local consent calendar.

Under Senate Rule 3-2.2(c), any Senator has the right to object under Senate Rule 4-2.8. This process requires that three Senators must object to placement of a bill on the local consent calendar. One of those three must be a Senator whose district is directly affected. If this happens, the local bill is removed from the Local Consent Calendar and placed on the Local Contested Calendar. In such a case, and after the local consent calendar have received a vote as a whole, each 'challenged' local bill is given a separate vote following procedures for general bills except that debate is limited to 10 minutes each for proponents and opponents.

17. When Does a Local Bill Become Law and Become Effective?

If a local bill has passed both chambers of the General Assembly, it is sent to the Governor. Under Article III, Section V, Paragraph XIII(a) of the constitution, a 40-day period occurs after the legislature adjourns *sine die.* Three things can happen. First, the Governor can sign a bill into law. Second, the Governor can veto a bill. Third, the Governor can choose to neither sign nor veto a bill, in which case the bill becomes law without the Governor's signature.

Once a local bill has been signed into law or has become law without the Governor's signature, it must be determined when that bill becomes effective. In other words, when does that law begin to operate? The matter is controlled by general law. Under O.C.G.A. § 1-3-4 (b), a local bill becomes effective on the day it is signed by the Governor OR the day upon which the local bill becomes law without the Governor's signature UNLESS the local itself specifies a different effective date.

18. Legislative Process for Local Redistricting Bills.

During the 2019 legislative session, the General Assembly enacted a new general law, O.C.G.A. § 28-1-14.1, that governs the technical procedures for drafting and passing local bills that revise or create election districts for county commissioners (as well as other entities).

O.C.G.A. § 28-1-14.1 purports to prohibit the General Assembly from considering a local redistricting bill if it fails to meet the requirements set forth in the Code section. This is not legally

enforceable since Article III, Section VI, Paragraph III of the Constitution prohibits the General Assembly from abridging or limiting its powers. However, the General Assembly is certainly authorized to abide by the restrictions even though it is not constitutionally required to do so.

The new requirements for local redistricting bills O.C.G.A. § 28-1-14.1 are as follows {references to sublevels of the Code section in parentheses}:

1) The bill must be drawn by the staff of the Legislative and Congressional Reapportionment Office of the General Assembly (LCRO) or be submitted to and certified by LCRO prior to being adopted by the local government {(b)(1)};
2) If the plan is drawn by LCRO, the local government must contact a member of the local legislative delegation and request that the member provide a letter of sponsorship to the LCRO authorizing the staff to work with the local government to prepare the plan. In lieu of that, the member of the local legislative delegation may work directly with the OLCR to prepare the plan {(b)(2)};
3) If the local government does not have the OLCR prepare the plan, the local government must submit the plan to OLCR for review prior to voting to accept the plan. A sponsorship letter must be acquired from a member of the local legislative delegation authorizing the OLCR to review the plan. OLCR staff will perform a technical compliance review. If technically sound, a certification form is issued to the local government and the local government may adopt the plan for submission to the General Assembly. If technical concerns are found, the local government and the legislative sponsor are notified. The local government may have OLCR make necessary corrections and submit back to the local government for reapproval or it may have the original preparer make revisions. It the original preparer makes the revisions; the plan must be resubmitted to the OLCR for review and approval. {(b)(3)};
4) Proposed redistricting plans that are not prepared by the OLCR must be submitted for review in electronic format and include email and phone number of a contact person, name of the submitter and the local government, an electronic map using the most recent United States census geographic boundaries, and a block equivalency file containing a column of the 15-digit census block identification numbers and a column of the three-digit district identification numbers. Identification numbers must be zero-text files and be submitted in .xls, .xlsx, .dfb, .txt, or .csv format. Statistical information must include, but not be limited to, total population and population deviations of each district {(d)}; and
5) If a legislator desires to proceed with a plan which the OLCR has not certified, the legislator must attach to the bill a letter from the OLCR stating that the bill cannot be certified by the OLCR and the reasons why {(e)}.

19. Census Plan Checklist.

Prior to the enactment of O.C.G.A. § 28-1-14.1, the Office of Legislative Counsel required each member who was seeking to introduce redistricting legislation to complete a Census Plan Checklist. Oftentimes, the members did not have the information requested readily available. In order to streamline this process, the Checklist could be completed ahead of time by the county. Considering the new general law requirements, it is not known at the time of this writing if the use of the Checklist will be continued.

20. Useful Contact Information.

Office of Legislative Counsel, 404-656-5000
Office of Legislative and Congressional Reapportionment, 404-656-5063