



GEORGIA

I. Summary of Home Rule in Georgia¹

- The Georgia Constitution only authorizes the General Assembly to delegate home rule powers to municipalities; it does not guarantee any powers to municipalities itself. The General Assembly has established municipal home rule by statute, exempting some areas from the grant of authority.
- The Georgia Constitution grants counties home rule power to adopt local ordinances “relating to [their] property, affairs, and local government” not inconsistent with state law, but the General Assembly is given broad power to further define and restrict such powers.
- Georgia courts often use language redolent of Dillon’s Rule in describing the legal status of local governments and invoke Dillon’s Rule’s narrowing canon of construction.
- All powers granted to cities and counties are subject to preemption by general law (and preemption may be express or implied).

II. History of Home Rule in Georgia

Georgia was an adamant opponent of home rule, and it did not attempt to enact home rule until 1945.² In 1945, the state adopted a constitutional provision mandating the legislature to provide for optional “uniform systems of county and municipal government,” which was followed by associated statutes in 1947 and 1951 that the Georgia Supreme Court invalidated.³ A 1954 constitutional amendment expressly allowed the General Assembly to provide “for the self-government of municipalities” and to delegate its powers.⁴ A substantially similar provision is still in effect today as Ga. Const. art. IX, § 2, ¶ II (“The General Assembly may provide by law for the self-government of municipalities and to that end is expressly given the authority to delegate its power so that matters pertaining to municipalities may be dealt with without the necessity of action by the General Assembly.”).

¹The information provided in this document does not, and is not intended to, constitute legal advice. Individuals and organizations should contact an attorney licensed to practice in their state to obtain advice with respect to a particular legal matter.

² R. Perry Sentell, *The Georgia Home Rule System*, 50 MERCER L. REV. 99, 105 n.23 (1998).

³ *Id.* (internal quotations and citation omitted).

⁴ *Supra* note 2 at 105.

The General Assembly passed a specific enumeration of municipal home rule powers in 1962, and then passed the Municipal Home Rule Act in 1965.⁵ These provisions provide the basis for municipal home rule in Georgia. The 1954 amendment made no provision for county home rule, but a 1966 a constitutional amendment directly granted counties home rule (now found in Ga. Const. art. IX, § 2, ¶ I).⁶

The motivation behind adopting home rule in Georgia was a reaction by the state legislature and local leaders to judicial doctrines that simultaneously saddled the state legislature with unwanted responsibility and limited the authority of municipal governments. Specifically, two legal doctrines adopted by the Georgia courts motivated the adoption of home rule.⁷ First, the Georgia courts interpreted the constitution as prohibiting the General Assembly from delegating any legislative powers to municipalities, forcing the legislature to craft municipal and general laws.⁸ Second, the Georgia courts repeatedly found that local regulations, which regulated a subject affected by statewide general laws, were constitutionally prohibited “special laws.”⁹

III. Municipal Home Rule Authority

A. Creation of Home Rule Municipalities

Chapter 31 of Title 36 of the Georgia Code describes various requirements for a locality to be eligible for incorporation as a municipal corporation (e.g., a population of at least 200 persons and an average resident population of at least 200 persons per square mile for the total area; development requirements).¹⁰

B. Source of Municipal Home Rule Authority

The Georgia Constitution allows the General Assembly to establish home rule for municipalities “so that matters pertaining to municipalities may be dealt with without the necessity of action by the General Assembly.”¹¹

The Georgia Constitution also specifically grants all municipalities certain powers, including:

⁵ Ga. Mun. Ass’n., Handbook for Georgia Mayors and Councilmembers, <https://www.gacities.com/Resources/GMA-Handbooks-Publications/Handbook-for-Georgia-Mayors-and-Councilmembers/Part-One-STRUCTURE-of-MUNICIPAL-GOVERNMENT/Municipalities-Sources-and-Limits-of-Power.aspx>.

⁶ Sentell, *supra* note 2 at 105. As a related note, a 1964 proposal for a new Georgia constitution which featured constitutional home rule powers for municipalities was struck down by federal courts as the product of a mal-apportioned legislature which could not be submitted to voters. This 1964 draft was never revived. R. Perry Sentell, Jr., Home Rule Benefits or Homemade Problems for Georgia Local Government?, 4 Ga. St. B.J. 317 (1968).

⁷ R. Perry Sentell, Jr., *Local Government Home Rule: A Place to Stop?*, 12 Ga. L. Rev. 805, 805–06 (1978).

⁸ *Id.*

⁹ *Id.*

¹⁰ Ga. Code Ann. § 36-31-3; Ga. Code Ann. § 36-31-4.

¹¹ Ga. Const. art. IX, § 2, ¶ II.

- **Supplementary Powers:**¹² This provision expressly authorizes local governments to exercise powers to provide specific services, such as police and fire protection, garbage and solid waste collection and disposal, public health facilities and services, and air quality control. The provision expressly allows the General Assembly to enact general laws on the subjects enumerated and to regulate, restrict, or limit the local exercise of those powers, although the General Assembly may not “withdraw” such powers.
- **Planning and Zoning:**¹³ This provision allows counties and municipalities to “adopt plans” and “exercise the power of zoning,” although it does not “prohibit the General Assembly from enacting general laws and establishing procedures for the exercise of such power.”
- **Eminent Domain:**¹⁴ This provision allows counties and cities to exercise the power of eminent domain subject to limitations in general law.¹⁵

The Home Rule Act of 1965¹⁶ outlines the details of municipal home rule in the state. For example, it:

- Specifies that a municipal corporation shall be “incorporated, dissolved, merged, or consolidated with any other municipal corporation, or have its municipal boundaries changed” only through an act of the General Assembly “or by such methods as provided by general law.”¹⁷
- **Grants home rule municipalities the 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 are not inconsistent with the Constitution or any [applicable] charter provision.”** At the same time, the General Assembly can “broaden, limit, or otherwise regulate” the exercise of such home rule powers.¹⁸
- Allows municipal governments to amend their charters through specified procedures.¹⁹
- Allows municipal governments to determine compensation of municipal employees with some restrictions.²⁰
- Prohibits the exercise of home rule authority in certain matters (in addition to any matters preempted by the General Assembly).²¹ These matters include, for example, actions

¹² Ga. Const. art. IX, § 2, ¶ III.

¹³ Ga. Const. art. IX, § 2, ¶ IV.

¹⁴ Ga. Const. art. IX, § 2, ¶ V.

¹⁵ Ga. Const. art. IX, § 2, ¶ V.

¹⁶ Ga. Code Ann. § 36-35-1, *et seq.*

¹⁷ Ga. Code Ann. § 36-35-2.

¹⁸ Ga. Code Ann. § 36-35-3.

¹⁹ *Id.*

²⁰ Ga. Code Ann. § 36-35-4.

²¹ Ga. Code Ann. § 36-35-6.

affecting the “composition and form of the municipal governing authority” or procedures for elections, actions defining certain offenses that are also criminal offenses under Georgia law, and actions adopting “any form of taxation beyond that authorized by law or by the Constitution.”²² Additionally, municipalities may not enact ordinances that affect private or civil law governing private or civil relationships, unless they do so incident to an exercise of independent governmental power.²³

C. Scope of Municipal Home Rule Authority

Georgia’s Home Rule Act grants municipalities “legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to [their] property, affairs, and local government for which no provision has been made by general law and which are not inconsistent with the Constitution or any charter provision applicable thereto.”²⁴

Courts have not been particularly clear in their articulation of what the authority to regulate “property, affairs, and local government” entails, but one local government scholar has described it as allowing municipalities to enact legislation that does not “rise to the level of affecting state legislation.”²⁵ That is, the grant of authority to regulate “local government” does not refer merely to the municipality’s governance structure. Rather, it refers to the municipality’s authority to enact legislation on local matters more generally, including the regulation of businesses. The Georgia Supreme Court has, in fact, referred to these home rule powers over “property, affairs, and local government” as “police powers.”²⁶

As noted above, the Home Rule Act of 1965 includes various specific limitations on the exercise of home rule powers, in addition to broadly allowing the General Assembly to preempt local laws through general laws. Ultimately, all powers granted to cities are subject to preemption by general law.²⁷ The fact that a provision appears in a city’s charter does not insulate it from being preempted by state law.

IV. County Home Rule

A. Source of County Home Rule Authority

The Georgia Constitution through Ga. Const. art. IX, § 2, ¶ I directly grants counties home rule authority, unlike the constitutional provision pertaining to municipal home rule that only grants

²² *Id.*

²³ *Id.* (“The power granted in subsections (a) and (b) of Code Section 36-35-3 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.”)

²⁴ Ga. Stat. Ann. § 36-35-3.

²⁵ R. Perry Sentell, Jr., *The Georgia Home Rule System*, 50 Mercer L. Rev. 99, 133 (1998).

²⁶ *See, e.g., Executive Town & Country Services, Inc. v. Young*, 376 S.E.2d 190, 191 (Ga. 1989) (“[T]he city has authority to regulate the activities of Town & Country in the exercise of its police powers by virtue of its home-rule power.”) (citing Ga. Stat. Ann. § 36-35-3).

²⁷ *City of Atlanta v. Shafer*, 546 S.E.2d 565, 567 (Ga. 2001) (“As a general matter, powers which the legislature sets out in city charters ‘are subject to limitations and preemptions imposed by general law.’”) (citation omitted).

the General Assembly the power *to delegate* such powers. In addition, state statutes grant various more specific powers to counties.²⁸

B. Scope of County Home Rule Authority

The Georgia Constitution creates county home rule and grants county governments what has been termed a “first-tier”²⁹ delegation of power “to adopt clearly reasonable ordinances, . . . 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.”³⁰ This language is identical to that given to home rule municipalities under the Home Rule Act of 1965.

In addition, the Georgia Constitution includes a “second-tier delegation” of power to counties that the Georgia Supreme Court has described as “‘the system’s most extensive grant of local “legislating” power; it comprises, no less, the essence of Georgia’s home rule complex.’”³¹ It states that “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” also outlined in Ga. Const. art. IX, § 2, ¶ I. Thus, unlike municipalities, a county is authorized to amend existing local state statutes that apply to the county.”³² As the Georgia Supreme Court stated, the “first-tier” delegation is “subservient to local statutes” while the “second-tier” delegation is “employed to change local statutes.”³³

V. Construction of Powers Granted to Home Rule Municipalities and Counties

a. Georgia Courts Often Interpret Home Rule Authority Narrowly

While the Home Rule Act of 1965 has granted municipalities and counties in Georgia some seemingly broad legislative powers, courts tend to interpret those powers strictly.³⁴ Georgia courts often use language redolent of Dillon’s Rule in describing the legal status of local governments.³⁵ Further, the Georgia Supreme Court frequently invokes Dillon’s Rule’s narrowing canon of construction, noting that “[t]he powers of cities must be strictly construed,”

²⁸ See, e.g., Ga. Code Ann. § 36-1-1, *et seq.*

²⁹ *Bd. of Comm’rs of Miller Cty. v. Callan*, 720 S.E.2d 608, 610 (Ga. 2012) (“Both the county and the municipal ‘home rule systems confer two “legislating” powers upon local governments.... At the first tier, the governing authority is empowered to adopt measures for its municipality or county that do not rise to the level of affecting state legislation.”) (citation omitted).

³⁰ Ga. Const. art. IX, § 2, ¶ I.

³¹ *Bd. of Comm’rs of Miller Cty. v. Callan*, 720 S.E.2d 608, 610 (Ga. 2012) (quoting R. Perry Sentell, Jr., *The Georgia Home Rule System*, 50 Mercer L. Rev. 99, 133 (1998)).

³² *Id.* (citation omitted).

³³ *Id.* (internal quotations and citation omitted).

³⁴ *Id.* (internal quotations and citation omitted).

³⁵ *City of Atlanta v. McKinney*, 454 S.E.2d 517, 520 (Ga. 1995) (“Municipal corporations are creations of the state and possess only those powers that have been expressly or impliedly granted to them.”) (internal quotations and citation omitted).

and “any doubt concerning the existence of a particular power must be resolved against the municipality.”³⁶

Atlanta’s attempts to extend discrimination protection to LGBTQ individuals illustrate the uncertain nature of home rule in Georgia. While the state Supreme Court invalidated Atlanta’s domestic partnership ordinance in *City of Atlanta v. McKinney*, the court in the same case upheld a 1986 Atlanta charter amendment that banned discrimination on the basis of sexual orientation in city hiring and other contexts.³⁷ In doing so, the court cited Atlanta’s police power under the home rule statutes, among other powers.³⁸ In a later case, the court upheld a rewritten domestic partner ordinance that extended benefits to the partners of city employees.³⁹ In 2000, Atlanta extended its discrimination protections to private employers with ten or more employees.⁴⁰ The ordinance remains in effect despite questions about its viability under the state constitution.⁴¹

b. The Private Law Exception

Georgia’s Home Rule Act limits a municipality’s home rule authority to, among other things, “take any action affecting the private or civil law governing private or civil relationships, except as is incident to an independent governmental power.”⁴² The Georgia Constitution imposes an identical limitation on the powers of home rule counties.⁴³

Private law can generally be defined as law that “establishes legal rights and duties between and among private entities.”⁴⁴ Municipal ordinances in Georgia that deal with the relationship between private employers and employees could be considered private law, since they seek to regulate the relationship between two private parties. Ordinances that deal with the relationship between the municipality itself and private parties, on the other hand, are not private law, since they affect the relationship between a private and a public entity.

The Supreme Court of Georgia in *City of Atlanta v. McKinney*, involving, in part, a city ordinance that extended various employee benefits to domestic partners of city employees, explained that “[a]lthough the meaning of [Section 36-35-6(b)] is ambiguous, it indicates that the state does not wish to give [Georgia] cities the power to enact a distinctive law of contract.”⁴⁵ The court held there that, [a]t a minimum, it means that cities in the state may not enact

³⁶ *Id.*

³⁷ *McKinney*, 454 S.E.2d at 521–22.

³⁸ *Id.* The dissent argued to no avail that the expanded protections conflicted with the more limited protected classes under state law and also were preempted by state law. *Id.* at 525 (Carley, J., dissenting)

³⁹ *City of Atlanta v. Morgan*, 492 S.E.2d 193, 196 (Ga. 1997) (determining “that the ordinance defines ‘dependent’ consistent with State law”).

⁴⁰ Atlanta Code of Ords. § 94-110, *et seq.*

⁴¹ See Michael A. Woods, *Comment: The Propriety of Local Government Protections of Gays and Lesbians from Discriminatory Employment Practices*, 52 EMORY L.J. 515, 544 (2003); GA. EMP. LAW § 7:14 (4th ed.).

⁴² Ga. Stat. Ann. § 36-35-6(b).

⁴³ Ga. Const. art. IX, § 2, ¶ 1(d).

⁴⁴ Gary T. Schwartz, *The Logic of Home Rule and the Private Law Exception*, 20 UCLA L. Rev. 671, 688 (1973).

⁴⁵ *McKinney* at 164–65. The court also noted that the ordinance violated a separate provision of the Georgia Constitution that “prohibits cities from enacting special laws relating to the rights or status of private persons.” *Id.* (citing Ga. Const. art. III, § VI, ¶ IV(c)).

ordinances defining family relationships.”⁴⁶ As noted above, the court invalidated the benefits ordinance, although it upheld the city’s anti-discrimination ordinance.”⁴⁷

VI. Preemption

Georgia’s state legislature can preempt any local law expressly so long as it does so by general law.⁴⁸ The legislature may also preempt a local law impliedly, based on the comprehensive nature of a state statute.⁴⁹ Absent express preemption, courts find that municipal laws are preempted when the state legislature evinces intent to do so. That intent “can be fairly implied from the sweeping language and broad scope of a general act regulating [subject] on a statewide basis.”⁵⁰

In addition, the courts frequently cite the uniformity clause of the Georgia Constitution as constitutional justification for preemption. The uniformity clause states:

Laws of a general nature shall have uniform operation throughout this state and no local or special law shall be enacted in any case for which provision has been made by an existing general law, except that the General Assembly may by general law authorize local governments by local ordinance or resolution to exercise police powers which do not conflict with general laws.

Ga. Const. art. III, § 6, ¶ IV(a). Courts have made clear that when general law has granted permission to adopt a local law on a subject, there is no conflict when the local law does not “impair the general law’s operation but rather augment[s] and strengthen[s] it.”⁵¹

VII. Local Officials’ Legislative Immunity

The Georgia Constitution protects state legislators from being made “liable to answer” for legislative statements.⁵² The Georgia Supreme Court in *Williams v. DeKalb County* explained that “[w]hile some immunities for members of the General Assembly are provided in [the state’s]

⁴⁶ *Id.*

⁴⁷ *Id.* at 165–66.

⁴⁸ *City of Atlanta v. Shafer*, 546 S.E.2d 565, 567 (Ga. 2001) (holding that a general law mandating salary increases for traffic court judges supersedes city charter provision to the contrary). A general law has been described as one that has a “general application” to all cities within a class. *See W. & A.R. Co. v. City of Atlanta*, 38 S.E. 996, 1005 (Ga. 1901). The Georgia Supreme Court has found that a law may qualify as a general law when it specifies a class “general in its terms, and founded upon a proper and legitimate basis of classification, and is general, and not special, legislation, though but a single county may . . . be embraced within the class affected by it.” *Barge v. Camp*, 70 S.E.2d 360, 365 (Ga. 1952).

⁴⁹ *City of Buford v. Ga. Power Co.*, 581 S.E.2d 16, 17 (Ga. 2003).

⁵⁰ *Atlanta v. S.W.A.N. Consulting & Sec. Services, Inc.*, 553 S.E.2d 594, 596 (Ga. 2001) (internal quotations and citation omitted).

⁵¹ *Bd. of Comm’rs of Miller Cty. v. Callan*, 720 S.E.2d 608, 612 (Ga. 2012) (internal quotations and citation omitted).

⁵² Ga. Const. art. III, §4, ¶ IX.

constitution, legislative immunity for local officials arises from statutes or from common law.”⁵³ The court cited cases for the proposition that courts cannot inquire into the motives of local officials in enacting an ordinance.⁵⁴ The court also understands U.S. Supreme Court precedent as having established legislative immunity for local officials.⁵⁵ However, the court also made clear that any “immunity conferred by statute or common law may be abrogated by statute,” finding in that case that the Open Meetings Act plainly abrogated legislative immunity for local officials.⁵⁶

VIII. Other Relevant Issues

a. *The Single Subject Rule*

The Georgia Constitution contains a single subject rule which states “One subject matter expressed. No bill shall pass which refers to more than one subject matter or contains matter different from what is expressed in the title thereof.”⁵⁷

b. *Prohibition on Local Laws*

Georgia’s Constitution allows the General Assembly to determine the procedures for which it can consider and enact local laws.⁵⁸

The Georgia Constitution also restricts the General Assembly from passing a “local law” to “repeal, modify, or supersede any action taken by a county governing authority” except as authorized subparagraph (c) of Ga. Const. art. IX, § 2, ¶ I,⁵⁹ which lists eight subject matters that may be the subject of local acts as long as such local acts are “otherwise permitted” under the state’s constitution. (Those subject matters include, for example, action affecting any elective county office, action defining any criminal offense or providing for criminal punishment, action adopting any form of taxation beyond that authorized by law or the state’s constitution, action affecting any public school system, etc.).

The state’s Municipal Home Rule Act includes a provision similar to Ga. Const. art. IX, § 2, ¶ I that prohibits the General Assembly from passing “any local law to repeal, modify, or supersede any action taken by a *municipal* governing authority under [Section 36-35-3], except as

⁵³ *Williams v. DeKalb Cty.*, 840 S.E.2d 423, 435 (Ga. 2020).

⁵⁴ Footnote 22 cites, in part, as follows: “*Village of N. Atlanta v. Cook*, 219 Ga. 316, 319 (1), 133 S.E.2d 585 (1963) (noting, in discussing legislative immunity, that under Georgia law “the courts will not inquire into the motives of a municipal council in the enactment of an ordinance.” (citations omitted)); *Clein v. City of Atlanta*, 164 Ga. 529, 541 (4), 139 S.E. 46 (1927) (Courts cannot inquire into the motive of the officials who enact an ordinance, “nor can they set the same aside, if it is not arbitrary and unreasonable, is not ultra vires, or is not unconstitutional.” (citations omitted)).” *Id.* at 435, n. 22.

⁵⁵ In noting that “legislative immunity for local officials arises from statutes or from common law,” the court includes the following cite in Footnote 22: “see also *Harlow v. Fitzgerald*, 457 U.S. 800, 807, 102 S.Ct. 2727, 73 L.E.2d 396 (1982) (“The absolute immunity of legislators, in their legislative functions. ... now is well settled.” (citation and punctuation omitted)).” *Id.*

⁵⁶ *Id.* at 435.

⁵⁷ Ga. Const. art. III, Sec. V, ¶ III.

⁵⁸ Ga. Const. art. III, § V, ¶ VIII.

⁵⁹ Ga. Const. art. IX, § 2, ¶ I.

authorized under Code Section 36-5-6.”⁶⁰

c. Constitutional Amendment Process

Article X, §1 of the Georgia Constitution

1. Brief Background

The 1945 and the 1976 Georgia Constitutions recognized two types of constitutional amendments: general constitutional amendments submitted to the people of the entire state and local constitutional amendments submitted only to the people of the political subdivisions directly affected.⁶¹ The 1983 Constitution prohibited the creation of future local amendments, but provided a mechanism to allow those already in existence to continue to operate.⁶² If no action was taken to continue a local constitutional amendment, it stood repealed no later than July 1, 1987 and local constitutional amendments continued in force may be repealed but may not be amended.⁶³ Local constitutional amendments have been recognized by the courts to continue to have constitutional status.⁶⁴

B. General Assembly Proposal: Article X, § 1, Paragraph II

An amendment or new constitution may originate as a resolution in either house of the General Assembly. Upon its passage by a two-thirds majority of both houses, the amendment will be submitted to the voters in a referendum at the next general election, which is held in even-numbered years. If a majority of voters approve, the proposal will be adopted.⁶⁵

C. Constitutional Convention: Article X, §1, Paragraph IV

A constitutional convention can be called by a two-thirds vote of each house of the General Assembly. All proposals for constitutional amendment by the convention will be submitted to and ratified by a vote of the people in the same manner as amendments proposed by Article X, § 1, Paragraph II.

⁶⁰ Ga. Code Ann. § 36-35-3 (emphasis added).

⁶¹ Ga. Const. 1945, art. XIII, Sec. I, ¶ I; Ga. Const. 1976, art. XII, Sec. I, ¶ I; *see also* Joe Scheuer, Association County Commissioners of Georgia, Local Amendments to the Constitution of Georgia: Conundrums Continued and Curiosities Curtailed (2018), <https://www.accg.org/library/LCABook.pdf>.

⁶² Ga. Const. art. XI, § I, ¶ IV; *see also* Joe Scheuer, Association County Commissioners of Georgia, Local Amendments to the Constitution of Georgia: Conundrums Continued and Curiosities Curtailed (2018), <https://www.accg.org/library/LCABook.pdf>.

⁶³ Ga. Mun. Ass’n., Handbook for Georgia Mayors and Councilmembers, <https://www.gacities.com/Resources/GMA-Handbooks-Publications/Handbook-for-Georgia-Mayors-and-Councilmembers.aspx>

⁶⁴ *Columbus-Muscogee Cty. Consol. Gov’t v. CM Tax Equalization, Inc.*, 579 S.E.2d 200 (2003).

⁶⁵ Additionally, any proposed amendment may be withdrawn or amended by the same General Assembly that submitted it to the people if such withdrawal or amendment is approved by two-thirds vote in each house of the General Assembly and this action is taken at least two months prior to the election where the proposal are scheduled to be submitted to the people. Ga. Const. art. X, § 1, ¶ III.

IX. Emergency Powers

Powers of the Governor

The Georgia Emergency Management Act (GEMA) grants significant powers to the Governor, including authority to “Suspend any regulatory statute prescribing the procedures for conduct of state business . . . if strict compliance with any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster.”⁶⁶ Further the Governor may delegate any powers granted to him by GEMA, including delegating to a local government.⁶⁷

There does not seem to be any case law interpreting the terms “regulatory statute” or “state business” in this context, so it is unclear if this power would allow the Governor to suspend any laws which preempt local government lawmaking.

Local Governments

The section of GEMA which discusses local governments predominantly discusses the responsibilities of local governments to establish emergency management. It also provides that upon the Governor declaring a state of emergency, local governments are granted additional powers in order to manage that emergency, including the power and authority “[t]o provide for the health and safety of persons and property, including emergency assistance to the victims of any emergency or disaster resulting from manmade or natural causes or enemy attack”⁶⁸ This language has been interpreted by the state attorney general as a broad grant of power to “enact ordinances for emergency purposes so long as such ordinances do not conflict with [GEMA].”⁶⁹

⁶⁶ Ga. Code. Ann. § 38-3-51.

⁶⁷ Ga. Code Ann. § 38-3-22(9).

⁶⁸ Ga. Code Ann. § 38-3-27(b)(2).

⁶⁹ 1989 Ga. Op. Att’y Gen. 124 (1989).