

Special Legislation and Local Approval: An Overview

September 2022

The Minnesota Constitution prohibits “special legislation” with the exception of certain special legislation relating to local governments. This publication provides a brief explanation of special legislation, what is prohibited, and exceptions to the local approval requirement for special legislation.

Special Legislation

Special legislation is legislation that applies to part of a class—a particular person, thing, or locale within a given class—and, in general, is prohibited under the state constitution. If a general law can be enacted, the legislature may not enact a special law, except a local law.

Whether a law is “special” is determined by the court on a case-by-case basis, applying general principles. In distinguishing permissible general legislation and unconstitutional special legislation, courts have said:

- a law is general when it is uniform in its operation even though it divides the subjects of its operation into classes and applies different rules to different classes; and
- a law is special if it applies to particular members of a class.

In order to determine if a classification is justified and constitutional, courts have applied a three-part rational-basis test. A classification is proper if:

- the classification applies to and embraces all who are similarly situated;
- the distinctions are not manifestly arbitrary or fanciful but are genuine and substantial so as to provide a natural and reasonable basis justifying the distinction; and
- there is an evident connection between the distinctive needs peculiar to the class and the remedy or regulations in the law.

Prohibited Special Legislation

The Minnesota Constitution lists certain subjects that cannot be the subject of special legislation, whether they are local law or not:

- authorizing the laying out, opening, altering, vacating, or maintaining of roads, highways, streets, or alleys

- remitting fines, penalties, or forfeitures
- changing the names of persons, places, lakes, or rivers
- authorizing the adoption or legitimation of children
- changing the law of descent or succession
- conferring rights on minors
- declaring any named person of age
- giving effect to informal or invalid wills or deeds, or affecting the estates of minors or persons under disability
- granting divorces
- exempting property from taxation or regulating the rate of interest on money
- creating private corporations, or amending, renewing, or extending the charters thereof
- granting to any private corporation, association, or individual any special or exclusive privilege, immunity, or franchise whatever or authorizing public taxation for a private purpose

The constitution also prohibits special laws in the form of bills of attainder. A bill of attainder is special legislation that inflicts punishment or a penalty upon an individual.

Finally, the constitution requires taxes to be uniform on the same class of objects.

Legislative appropriations are not special legislation.

Local Approval

As an exception to the prohibition on special legislation, the state constitution permits the legislature to enact special laws relating to local government units. A local law is effective only after approval by the affected local government unit, unless the general state law provides otherwise.

State statute requires approval by resolution adopted by a majority vote of all members of the governing body of the unit unless the particular special law specifies another method of approval. The chief clerical officer of a local government unit then files a certificate of local approval with the secretary of state, including a copy of the resolution of approval or, if submitted to the voters, the number of votes cast for and against approval at the election. Generally, the law is effective after the local government files the required certificate with the secretary of state.

If a local government unit fails to file a certificate of approval before the first day of the next regular session of the legislature (i.e., before the first Tuesday after the first Monday in January of odd-numbered years), the law is deemed to be disapproved by the local government unless otherwise provided in the special law.

Exceptions

The constitution permits the legislature to provide by general law exception to the local approval requirement. Currently, state statute provides three instances in which local approval is not required:

- 1) The law enables one or more local government units to exercise authority not granted by general law. That is, the law is permissive, not mandatory.
- 2) The law brings a local government unit within the general law by repealing a special law, by removing an exception to the applicability of a general statutory provision, by extending the applicability of a general statutory provision, or by reclassifying local government units.
- 3) The law applies to a single unit or a group of units with a population of more than one million people.

Under all other circumstances, local approval is required. This includes legislation for a local government that is coded in Minnesota Statutes. Even if a law does not require local approval because it fits one of the exceptions above, if the specific legislation requires it, it is not effective until approved. Finally, whether or not the legislation expressly requires local approval, if the legislation is local law and none of the general law exceptions apply, the constitution requires local approval before the law is effective.

“Application Clause”

The constitution also requires that special legislation for a local government name the local government unit or the counties, if more than one unit is affected, whether or not local approval is required.

Usually the affected unit of government is named as a substantive part of the law and the application is apparent. With regard to the Metropolitan Council, although the unit of government is named in the substantive part of the law, it has become standard practice to add an “application clause,” listing the counties included in the jurisdiction of the council.

For more information: See the House Research publication [Special Legislation](#), January 2020.



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