

# 1999 Supplement to

## LOCAL GOVERNMENT LAW

Fourth Edition

William D. Valente  
David J. McCarthy, Jr.



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**1999 Supplement to**  
**LOCAL**  
**GOVERNMENT LAW**  
**CASES AND MATERIALS**  
**Fourth Edition**

**By**

**William D. Valente**

*Professor of Law, Emeritus  
Villanova University School of Law*

**David J. McCarthy, Jr.**

*Professor of Law  
Georgetown University Law Center*

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## **Chapter I**

### **INTRODUCTION**

#### **B. FORMS AND FUNCTIONS OF LOCAL GOVERNMENT UNITS**

#### **2. LEGAL CLASSIFICATIONS OF LOCAL GOVERNMENTS**

##### ***b. Classification According to Structure***

**pp. 5–12**

##### **LOCAL GOVERNMENT AUTONOMY**

U.S. Advisory Commission on Intergovernmental Relations A–127 October 1993.

#### **EXECUTIVE SUMMARY**

Local government in the United States has a rich history. Cities, counties, towns, townships, boroughs, villages, school districts, and a host of special purpose districts, authorities, and commissions make up the 86,743 units of local government counted in the 1992 Census of Governments. These local governments have many different forms and organizational structures. Variations in the numbers and forms of local government arise from each state's unique political culture.

Local self-government has been institutionalized in thousands of compacts, charters, special acts, statutes, constitutional provisions, resolutions, ordinances, administrative rulings, and court decisions. Among these enactments, state constitutional provisions are singled out for special attention in this report.

State constitutional provisions that speak directly to the allocation of authority between state and local government embody a judgment about the preferred allocation of power within the state. These provisions have been created, revised, and refined over time as a popular political response to empirical conditions. As such, they are the cornerstones on which any sound theory of local government autonomy can be built.

**p. 12: Add re census data**



The problems of urban communities and the census reached the U.S. Supreme Court. In *Wisconsin v. City of New York*, 116 S.Ct. 1091 (1996), the Court ruled that the Secretary of Commerce acted reasonably in concluding that an "actual enumeration" (the Constitutional requirement) could best be achieved without a post-enumeration statistical adjustment, and that the Secretary's decision was well within the bounds of discretion given to Congress in Article I, Section 2 and delegated by them.

*(6) Newly Evolving Government Structures*

**p. 13 - 14: Add to Note 1 new heading**

**1. Relationships between "private governments" and the public government.**

County registration fees on common ownership communities to fund dispute resolution and technical-assistance activities were upheld as not violating state laws barring the imposition of burdens on condominiums though such fees were not imposed on other properties of similar character. *Dumont Oaks Community Association, Inc. v. Montgomery County*, 333 Md. 202, 634 A.2d 459 (1993).

The interaction of voter-accountable government with the private-covenant-created "private governments," however, is not confined to services such as dispute resolution and technical assistance for unmet community needs. State laws may permit local governments to impose taxes supporting public purpose activities of the homeowners' association, upon petition of a majority of covenanted residents. See *Williams v. Anne Arundel County*, 334 Md. 109, 638 A.2d 74 (1994), reported in chapter VIII of this supplement. Such cases effectively conjoin the government functions of a special tax district with the management functions of the private organization. Private government thus moves beyond the model of a distinct "company town" stage to one of empowerment at an existing level of existing government.

A cognate concept, the business improvement district, has expanded rapidly in major metropolitan areas. Taxpayers volunteer for government imposition of benefit taxes to fund increase police, sanitation, and other services. See Thomas J. Lueck, "Business Districts Grow At Price of Accountability," *The New York Times*, Nov. 20, 1994, at p. 1.