

Topic:
BEACHES; LEGISLATION; LOCAL GOVERNMENT (GENERAL);
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OLR RESEARCH REPORT

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CONFLICT BETWEEN BEACH ASSOCIATION'S BYLAWS AND CHARTER

By: John G. Rappa, Principal Analyst

You wanted to know if the Lake Williams Beach Association's bylaws must conform to its special act charter, which specifies its powers and duties. The Office of Legislative Research cannot give legal opinions and you should not regard this memo as one.

The bylaws must conform to the special act. While they allow the association to change any bylaw by a two-thirds vote of those present at an association meeting, the act requires the association to decide any question at an annual or special meeting by a majority vote of those voting (*Bylaws Governing the Lake Williams Beach Association*, revised June 2, 1996, p.3 and SA 53-214, respectively). Voting on bylaws must comply with this requirement since the act does not permit a different one for this purpose (Section 8).

Furthermore, "the general rule is that when a state legislature has prescribed the manner in which a local government may pass an ordinance, or a resolution, the local government must follow those procedures. If the local government fails to observe the mandatory prerequisites, the ordinance or resolution will be considered void and set aside" (56 *Am Jur 2d*, pp. 340-341).

JR:eh