

Legislation of Interest to Municipal Officials

Legislation of interest to municipal officials is difficult to discuss in the confines of a single article. In addition to the legislative program of the League of Municipalities, there were many other laws which in some significant way affected municipal organization and procedure. Furthermore, 1957 brought an unusually large number of local acts, most of them important only to individual municipalities but many of them of significance to other cities and towns. For comparison it is of interest that in 1951 the General Assembly enacted 220 local acts pertaining to city government. The 1957 General Assembly enacted 388.

Because of the variety of subject matter of interest to city officials, reference should be made to other articles in this issue. See, in particular, the articles on "Property Taxes," "City Planning," "Public Purchasing," "Public Personnel," "Election Laws," "Law Enforcement," "Motor Vehicles and Highway Safety," "Courts, Judges, and Related Officials" and "Public Schools."

Chapter numbers given refer to the 1957 Session Laws of North Carolina. HB and SB numbers are the bill numbers of bills introduced in the House and in the Senate.

A record of solid, if unspectacular, achievement—that is the best judgment of the way municipalities fared in the 1957 General Assembly.

They enjoyed some small revenue gains but their major revenue problems were not solved.

They secured necessary legislation to engage in urban redevelopment and to encourage planning.

They secured desirable improvements in tax collection, purchasing and fiscal control procedures.

They succeeded in fighting off any attempts to weaken municipal government.

If some major, long-term objectives were not attained, neither had they been actively sought. Although recommendations of the Tax Study Com-



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mission promised some fiscal relief in the form of new permissive sources of revenue, most city officials had little hope that these measures would be approved. They were not.

1959 is a year of promise, however, for the General Assembly took a most important step in the latter days of the 1957 session. Faced with a bill asking for a basic change in annexation procedures and alert to the fiscal problems faced by rapidly-growing cities in the state, the legislature established a Commission of the North Carolina General Assembly to Study Problems of Municipal Government [Resolution 51 (HR 1424)]. The Commission, to be composed of three senators and six representatives, was given a broad assignment, but emphasis seems to have been placed on the study of new annexation procedures and better methods of financing municipal functions. If, in the twelve-month period assigned to it for study, the Commission can come up with sound recommendations on these issues, municipal officials may have a most important program to present and vigorously support in the 1959 General Assembly.

There was talk but no action on the question of "home rule" in 1957. The volume of local legislation applying to cities and towns was much higher than in recent sessions. For a brief picture of the subject matter covered, see Table 1. Only a small percentage of these acts can categorically be said to be unnecessary, however. There are isolated examples, such as the nine acts creating bird sanctuaries in almost exactly the same language already found in G.S. 160-166.1 and 166.2, but most of the legislation had to go through the General Assembly. Whether most of it should, as a policy matter, have had to go through the General Assembly is another question indeed, but as in 1955 there seems to be little real sentiment for the type of constitutional home rule authority

that cities in other states hold. In most cases, city officials, citizens and legislators alike seem to prefer the assembly-line smoothness of action in the General Assembly, and only in isolated instances have legislators in recent years stepped on local interests back home or aroused any ire through "high-handed" action.

POPULAR GOVERNMENT will carry an article during the winter commenting on the "home rule" question as it relates to the volume and subject matter of local legislation affecting municipal government.

Organization, Procedure and Officers

There were no state-wide laws passed concerning municipal organization and officers. Important legislation covering major management procedures such as tax collection, purchasing, and fiscal control are discussed elsewhere in this article or in other articles.

General law provisions concerning municipal organization have been unchanged for the most part since they were placed in the general law in 1917 at a time when most legislators thought that Article VIII, Section 4, of the Constitution had prohibited charter amendments by special act. In recent years, only the provisions of the Plan D form of government have been utilized by any North Carolina city. Even then a majority of city-manager cities have relied on special legislation to make minor or even major changes in the Plan D form of organization.

1957 brought more than the usual number of local acts making basic changes in the form and composition of municipal governing boards. All of these reflect study and discussion at the local level, and it is perhaps a healthy sign that so many changes were made.

Local Acts

Three more new towns were incorporated by the 1957 General Assembly: Goldpoint in Martin County, Emerald Isle in Carteret County, and Danbury in Stokes County. In addition Chapter 1288 (HB 1297) authorized to Carteret County board of elections to call an election prior to September 1, 1957, to determine whether the town of Harkers Island should be incorporated. The towns of Cove City in Craven County, Swanns in Lee County, Jefferson in Ashe County,

Several other towns made changes in the method of choosing officers. Henceforth the town boards in Cone-toe and Speed will choose the town constable rather than having him elected by the voters. Appointive officers in Fairmont will henceforth serve at the pleasure of the board and they need not be residents of the town at the time they are appointed. A section of the Lexington charter requiring that the city clerk-treasurer be a member of the town board was repealed, as was language concerning board responsibility for appointment and pay of other officials. A general statement authorizing appointment and pay of a clerk and treasurer and other necessary officials was substituted.

In addition to basic changes made in these municipal charters, nine cities had thoroughgoing revision and consolidation of their charters. These cities were Greenville, New Bern, Southern Pines, Gibsonville, Mayodan, St. Pauls, Micro, Teachey and Yaupon Beach. In view of the many archaic and obsolete provisions now cluttering the charters of many North Carolina cities and towns, every town would be well advised to review its charter and secure a complete revision at an early session of the General Assembly.

The unusually large number of acts providing for pay increases for mayors and governing board members is discussed under "Public Personnel."

Annexation

The pressure of continued urban growth in major North Carolina cities brought the question of city boundary extension in the state to a slow boil in 1957. While no major action was taken by the General Assembly with respect to annexation procedures, local legislation introduced and passed indicates intense concern with problems of growth in most of the state's largest cities. Furthermore, that legislation indicates continued dissatisfaction on the part of the cities with the general law annexation procedure which gives residents in the area to be annexed a controlling voice in determining whether an annexation shall be effective.

A study of annexation procedures and other statutory provisions governing the extension of municipal services and controls to new development in outlying areas is one of the two major assignments given the newly-created Municipal Government Study Commission. The Commission's recommendations will be watched care-

fully by city officials and city residents throughout the state.

Some legislation dealt with annexation problems on a statewide basis, though in each case there was local impetus for the legislation. Chapter 527 (HB 395) authorizes the governing board of any sanitary district annexed to a city to contract with such city for the transfer of property owned by the district to the city on such terms as the sanitary district board may deem to be to the best interests of the inhabitants of the district. This legislation was passed to assist the merger of the Bessemer Sanitary District with the City of Greensboro. It is worth noting that there is no general law authority at the present time under which a city may annex a contiguous sanitary district. The Greensboro annexation was also responsible for Chapter 526 (HB 393) which authorizes a fire protection district to contract with a city to which part or all of the district has been annexed concerning furnishing fire protection and the acquisition by the city of any property owned by the district.

Chapter 1375 (SB 348) takes a first step toward solving a problem

which has concerned and annoyed city officials for years. At the present time school bus transportation is not available at state expense for children living inside the corporate limits of a city, and some annexations have been discouraged by parents who did not want to assume responsibility for transporting children to school as a result of being brought into the city limits. Under the new legislation, stemming from a situation in Hickory, school bus transportation which was being provided to an area prior to February 6, 1957, cannot be discontinued for the sole reason that that area has been annexed to a municipality subsequent to that date. As a result the threat of losing school bus transportation will not be a major obstacle to annexation by cities in the future. The question of bus service for children already living in cities and having a long distance to travel to schools is still to be solved.

Local Acts

A marked inclination to rely on legislative action rather than the general law annexation procedure was evidenced in 1957. Since 1947, 49 cities have secured annexations through legislative action, out of a

| Subject | No. of New Laws | No. of Bills Introduced but Not Passed |
|--|-----------------|--|
| Organization and Procedure | | |
| Incorporation or reactivation | 11 | |
| Forms of city government | | |
| Providing for city manager | 4 | |
| *Changes in number and term of mayor and council | 21 | 2 |
| Municipal election procedures | 41 | 3 |
| *Pay of governing board members | 29 | 1 |
| Qualifications and appointment of officials | 8 | |
| Retirement and civil service | 10 | |
| Charter revisions | 16 | |
| Sale of property | 40 | 2 |
| Municipal Finance and Fiscal Control | | |
| Taxation and revenue | 21 | 4 |
| Expenditures | 9 | 3 |
| Property tax collection | 10 | |
| Special assessments | 15 | |
| Planning, Zoning and Extension of Limits | | |
| Planning and zoning | 22 | 1 |
| Annexation | 28 | 3 |
| Miscellaneous | | |
| Streets, traffic and parking | 4 | 1 |
| Regulatory powers, other | 20 | |
| Police jurisdiction | 15 | 1 |
| Local courts | 27 | 3 |
| Sale of wine, beer and liquor | 7 | 3 |
| Other municipal functions | 17 | |
| Miscellaneous | 3 | |
| Grand total | 388 | 27 |

* Seven other laws made changes in the number and terms of office of governing board members. Thirteen other laws provided for increases in the pay of governing board members. These laws are classified under some other heading.

total of 160 annexation actions. In 1957 alone, 14 cities had their boundaries extended by legislative action and six more secured modifications in annexation procedures though retaining requirements for electoral approval. The fourteen were Greensboro, Monroe, Rockingham, Farmville, Cleveland, Garland, Salemburg, Princeton, Sanford, Robersonville, Mount Pleasant, Lake Waccamaw, Tabor City, and Wallace. Greensboro's case was of unusual interest. As a result of legislation in the 1957 General Assembly, Greensboro brought the Town of Hamilton Lakes, Bessemer Sanitary District and a large unincorporated area within the city limits. The total extension increased the area of the city by almost 31 square miles and brought in a population of about 25,000. At the moment Greensboro is the largest city in area in the state, but when Charlotte's most recent annexation of about 30 square miles, approved by the voters in July, becomes effective on Dec. 31, 1959, that city will regain its place as the largest city in area as well as population.

The six acts modifying annexation procedures are of interest because of the nature of the changes they impose.

1. Pilot Mountain and Fairmont were simply authorized to call an annexation election, and the annexation will be effective if the votes of city residents and residents of the area to be annexed are in favor, all votes being counted together. A similar measure applying to Red Springs received an unfavorable report from a House committee.
2. Charlotte received permission to extend its boundaries upon a favorable vote of inside and outside residents voting together, but the effective date of the annexation was fixed at Dec. 31, 1959, and the city was authorized to proceed in the meantime to install public facilities in the area which will be annexed.
3. Thomasville was authorized by Chapter 399 (SB 85) to annex additional territory following a similar vote. The act, however requires the city council, prior to giving notice of intention to consider an annexation, to make a finding that the city will be able to and will furnish (from and after December 31 of the year in which the election is held) the same services to the area annexed as are afforded other comparable parts of the

city at the time the territory is annexed. This provision is similar to the charter provision under which Winston-Salem has extended its corporate boundaries since 1947. Later in the session Chapter 1072 (HB 1164) established the same procedure for Mount Airy.

A somewhat different concept was embodied in Chapter 1099 (HB 1032) concerning the City of Durham. Under the provisions of the act Durham may annex any or all of a six-mile tract defined in the act prior to Jan. 1, 1959, by simple ordinance. The city council may not pass the ordinance, however, until it has made a detailed study of the services to be provided the annexed area, the cost of providing such services, and the time within which the services can be provided, and has made an affirmative finding that the city will be able to and will furnish the same general services and benefits to the area annexed as are provided in other comparable parts of the city. The statute specifically sets forth service standards with respect to major services which the council must be satisfied can be attained.

In addition to these acts, Bessemer Sanitary District and the Town of Hamilton Lakes were merged with the city of Greensboro as of July 1, 1957; Longview and Hickory voters were authorized to vote (separately) or the question of merging those two municipalities; Lumberton and Concord secured legislation making city school administrative boundaries coterminous with city boundaries now and in the future; and validating acts were passed confirming new boundary lines for Greensboro and Winston-Salem.

Chapter 1307 (HB 1385) directs the Durham County commissioners and the Durham city council to appoint a commission to study the joint functions of the county and city and the sources of income therefrom. Two members would be appointed by the county and three by the city, and expenses would be shared on a 40%-60% basis. The commission would be authorized to employ assistance and to report its findings and recommendations to the 1959 General Assembly.

In trying to get perspective, three comments can be advanced. Dissatisfaction with the general law procedure whereby fringe area residents can defeat an annexation effort by a city is more and more in evidence as urban development spreads, and the

whole concept of whether annexation should depend on approval by all areas concerned or whether some set of standards should govern municipal annexation will surely be examined carefully by the newly-created study commission.

Secondly, this annexation legislation, considered in conjunction with planning and zoning legislation adopted at this session, indicates that cities are more and more aware of the effect that present development outside their corporate boundaries has on future development of the city.

Finally the size of annexations in Greensboro (27 square miles) and Charlotte (30 square miles) demonstrates the extent to which urban development is spreading in North Carolina cities and the manner in which the cities concerned want to keep both services and controls moving forward into areas undergoing rapid development.

Municipal Finance and Fiscal Control

The Tax Study Commission recommendations to the General Assembly included several bearing on municipal revenues. One would have revised the state and local privilege license tax system and have introduced a system of taxation by gross receipts which would have placed a ceiling on the total license tax which any business would have had to pay to all units of government—state, county and city. Another proposed to help cities alleviate their revenue problems by permitting the levy of a tax of up to \$10 on the privilege of earning salaries and wages in the city during the year and permitting cities to increase the motor vehicle license tax from \$1 to \$10 per year. All of these recommendations were disapproved by the General Assembly.

Some others were approved. Instead of retaining 20% of all intangibles tax collections the state (beginning in 1958) will return to cities and counties all of the net proceeds from this tax, retaining only a sufficient amount to pay for the cost of collection. As a further result of Commission recommendations, all banks (state and national) will henceforth pay a state excise tax based on income, and as a result the tax on bank shares heretofore collected by cities and counties was removed. The Department of Tax Research has estimated that cities as a whole will enjoy a net gain of \$446,000 a year from the intangibles tax change and a net loss of \$300,000 a year from the