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Contents

The cover photograph shows one of the North Carolina State Highway Patrol commissioned officers in-service training sessions for 1959. See pages 14 and 15 for a description of this year's series of Patrol training schools.

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LIGON RECEIVES PUBLIC HEALTH AWARD

"For outstanding contributions in the advancement and promotion of public health in North Carolina by a person other than a professional public health worker, the North Carolina Public health worker, the North Carolina Public Health Association has established the Distinguished Public Health Service Award. The Association confers this Award for 1959 upon MR. RODDEY M. LIGON, JR., Assistant Director, Institute of Government, Chapel Hill, North Carolina.

It was in large part Mr. Ligon's untiring efforts, patience and enthusiasm which made possible the revision of the Public Health Laws by the 1957 Legislature. Without his valuable contributions, this would have been an almost impossible task.

The bulletin he originated and edits, "Public Health Bulletin," published by the Institute of Government, summarizes legal matters of interest and import to public health workers and has proved of considerable value in clarifying and emphasizing the legal aspects of public health.

As he has met with health directors, nurses, sanitarians and other groups, Mr. Ligon has repeatedly proved to be a valuable resource to health personnel in clarifying and simplifying the legal interpretations, limitations and responsibilities of each discipline as related to public health.

For his contributions in the legal aspects of public health in North Carolina, the North Carolina Public Health Association takes pleasure in extending the Distinguished Public Health Service Award for 1959 to Mr. Roddey Ligon, Jr."

Citation of the North
Carolina Public Health Association

Roddey M. Ligon, Jr., Assistant Director of the Institute of Government, has been a member of the Institute of Government staff since his graduation from the University of North Carolina Law School in 1951.

In addition to his work with public health officials, Ligon also has responsibility for the Institute's programs in the areas of public welfare and family law. In the public welfare area, he works with county commissioners, attorneys and accountants, as well as with state and county public welfare officials. In the family law area he works with public officials concerned with legal matters in this area, such as clerks of court who handle adoptions and serve as judges of juvenile courts, and teaches a course in family law in the U.N.C. Law School.

He has prepared and distributed many publications in all three areas of work.

SMALL WATERSHED ENABLING LAWS

by Milton S. Heath, Jr.
Assistant Director, Institute of Government

The adoption by the 1959 General Assembly of small watershed enabling legislation capped several years of continued efforts on the part of conservationists and farm organizations.[1] If anything, the sponsors of this legislation now find themselves embarrassed by riches. For, while they sought only one enabling law, they were rewarded in effect with three. The General Assembly passed an act permitting creation of watershed improvement districts within soil conservation districts, with power to levy benefit assessments. It also added to the original watershed improvement district bill a separate article pemitting counties to undertake watershed improvement programs financed by county-wide property taxes. Finally, it broadened the drainage district law so as to make possible the carrying on of these programs through drainage districts in some circumstances.

The results may well be confusing for farmers and others who are thinking of organizing small watershed programs. This article will try to reduce that confusion—*first*, by spelling out the essential elements of each of these three alternatives; *second*, by comparing major differences in the three laws in an illustrative chart; and *third*, by commenting briefly on some of the advantages and disadvantages of each alternative.

Before going any further, two precautionary notes should be made.

(1) This is not a complete guidebook for conducting small watershed programs. It does not go into all of the detailed procedures. It seeks primarily to furnish a background for an intelligent choice among three alternatives. Small watershed sponsors, at least those who choose to proceed through watershed improvement or drainage districts, will almost certainly need the help of a lawyer in getting organized.

(2) As to drainage districts, it should be pointed out that this article deals only with the general drainage district law. It does not go into local variations that have been adopted by local or special acts.

(3) There are still other ways to carry out small watershed programs, most of which existed before the 1959 General Assembly met—through soil conservation districts, cities and counties operating under their general powers, etc. This article says very little about these other alternatives.

[1] See Milton S. Heath, Jr., "Water Resources". *Popular Government*, June 1959, P. 22.

WATERSHED IMPROVEMENT DISTRICTS

Organization

[GS 139-5(a), 139-16 to 139-18]

Petitions. The organization of a watershed improvement district is begun by obtaining the signatures on a petition of 100 owners of land lying within the limits of a proposed district. (If there are less than 200 landowners in the area, only a majority of them must sign.) The petition must contain, among other things, a description of the area of the proposed district, and, to the extent feasible, a description of the proposed works of improvement and of their effect on the lands involved. The State agencies that supervise these programs are now in the process of preparing petition forms for use by watershed improvement district sponsors.

The petition is filed with the supervisors of the soil conservation district or districts in which the proposed watershed improvement district would be located. The supervisors must hold a public hearing concerning the proposal. Thereafter they must consider, among other things, whether the proposed district holds promise of administrative, economic and engineering feasibility.

Elections. If the supervisors believe the requirements concerning feasibility, etc. have been substantially met, they must set the date for a referendum among the landowners. The petitioners must furnish a denosit to meet the election expenses. Responsibility for conducting such referenda rests with the board of county commissioners of each county that contains any part of the district, but the commissioners may assign this function to the county board of elections or to any other persons. The election procedures are set forth in subsections (b) to (n) of GS 139-18, and are quite similar to the procedures provided for in the general election law governing local elections. One noteworthy departure from customary election procedures is a provision that allows corporations, associations and fiduciaries owning land within a proposed district to register and vote.

The supervisors may not approve the petition unless a majority of the voters in the referendum, and also a majority in number of the petition signers, voted favorably. If both of these requirements are met, the supervisors are to approve the petition if they believe the district holds promise of administrative and economic feasibility.

Territorial Limits. GS 139-16 provides that, with one stated exception, watershed improvement districts may be established only within one or more soil conservation districts. The exception permits inclusion of land within the watershed of a proposed watershed district, but not within the boundaries of any soil conservation district, with the consent of the affected landowners.

The principal effect of the limitation to lands within existing soil conservation districts is to prevent the mandatory inclusion of certain lands not in agricultural use—"town or village lots" and "Government owned or controlled land", as defined by GS 139-5(a).

GS 139-18 (b) (1) states a legislative intention that the territory of a watershed district should normally comprise all or part of a single watershed, or of two or more watersheds tributary to a major drainage basin, with exceptions being permitted "in appropriate cases". It is possible that, in view of the tone of the language used, the courts might interpret this provision as not being mandatory, thereby eliminating the slight restriction it would otherwise impose.

District Governing Body
[GS 139-21, 139-22]

Selection. A watershed improvement district is governed by a 3-member board of trustees. The initial trustees are appointed by the soil conservation district supervisors, and their successors are elected at the general elections for 6-year staggered terms from nominees named by landowner petitions. The election procedures are quite similar to those provided for by the general election laws governing local elections.

Compensation. The trustees receive $7 per diem allowances and necessary expenses for attending board meetings.

Powers
[GS 139-8, 139-24]

In General. Watershed improvement districts were granted all of the powers of soil conservation districts, including certain powers for flood prevention and water conservation added in 1959. This means, among other things, that they may conduct surveys and investigations, develop plans, carry out preventive and control measures and works of improvement, construct and maintain structures, and make available to land occupiers equipment, fertilizer and other materials in the interest of preventing soil erosion or floods, reducing floodwater and sediment damages, or of the conservation, utilization or disposal of water, or the development of water resources. These powers do not, however, permit diversion of water from one watershed to another, nor otherwise modify existing water rights.

Acquisition of Property. Watershed improvement districts may acquire property by any of the methods customary in private transactions, but it has been generally assumed that the power of condemnation was not conferred upon the districts. The statutes appear to support this assumption.

GS 139-24 (by reference to GS 139-8(4)) grants to watershed improvement districts the authority "to acquire by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein". Nowhere in the statute is the power of condemnation expressly granted to the districts. If they possess such power it can only arise as an implied attribute of a public body (if such a right exists, which is doubtful) or through a liberal construction of the words "or otherwise" in the provision just quoted. Both such arguments, however, appear to be foreclosed by GS 139-8 (11), which states:

> No provision with respect to the acquisition . . . of property by other public bodies shall be applicable to a district organized hereunder unless the legislature shall specifically so state.

While the limitation set out in the quoted subdivision relates in terms only to soil conservation districts, it would seem to have been incorporated into the watershed improvement district article along with the powers of soil conservation districts.

Financing
[GS 139-24 to 139-32, 139-34]

It has been previously noted that the expenses of the referendum to create a district are defrayed from a deposit required of the petitioners.

Benefit assessments constitute the principal source of revenue to meet the cost of works of improvement and other expenses of organized districts. The assessments are levied against benefited land lying within the district upon the basis of the land classifications adopted by the trustees. The initial levy is designed to cover the cost of contemplated works of improvement plus all other accrued expenses and expenses that will accrue during the first three fiscal years of the district. It is payable, at the option of the landowner, in cash or three equal annual installments. Subsequent assessments may be made annually, biennially or triennially, with comparable coverage. The largest assessment that may

be levied, either on the initial or any subsequent assessment roll, is $5 per acre.

Districts may also incur debts and issue bonds. Unless the repayment of the debt or bonds is limited to the proceeds of benefit assessments, a bond referendum among the qualified voters of the district is required. If the repayment is so limited, a referendum may be held but the statute does not require it.

No effort will be made here to review the detailed procedures for collecting assessments and issuing bonds, which are contained in §§ 25 to 32 and 34 of GS Chapter 139. Suffice it to say (1) that the assessments are collected by the county tax collector in the same manner as county taxes; (2) that the tax collector must make monthly settlements of assessment collections with the secretary-treasurer of the watershed district and must also deposit these funds with the official depository of the district; (3) that it is the task of the district to prepare and mail the assessment receipts; (4) that a 2% collection fee is allowed tax collectors on a fee basis, or the county government, where the tax collector is salaried; and (5) that a watershed assessment constitutes a lien on the real property against which it is assessed only from the time the assessment roll is filed with the county tax collector.

Budgets and Accounting
[GS 139-23, 139-26 (a), (h)]

The budgetary requirements of the law, if they may be termed such—requirements concerning calculation of expenses prior to levy of assessments—have been mentioned under the heading of "Financing". The trustees also must provide for the making and publishing of an annual audit of receipts and disbursements.

State Supervision
[GS 139-4 (d) (7), 139-35]

Watershed improvement districts are supervised to a limited extent by two State agencies, and, if they should issue bonds or incur debt, by a third. They are required to obtain the approval of the State Soil Conservation Committee for planning assistance applications under Public Law 566.[2] They must obtain the approval of the State Board of Water Resources for watershed work plans developed under P.L. 566. They may be required by that Board to record and report stream flows above and below their dams, if funds are available for this purpose. They must submit to the Board plans of proposed methods of operation for works of improvement, and may be compelled by the Board to comply with such plans. Finally, the Board, at the request of dissatisfied landowners, will review land classifications made and benefit assessments levied by district trustees. In reviewing the classifications and assessments, the Board may affirm, overrule or modify them.

Districts which issue bonds or otherwise incur debts must obtain the approval of the Local Government Commission, and are subject to the Commission's supervision at various stages of the process.

[2] For the benefit of those who are not familiar with it, Public Law 566 of the 83rd Congress offers Federal aid for some of the costs of small watershed programs. It is summarized in footnote 5 on page 25 of the June 1959 issue of *Popular Government*.

COUNTY WATERSHED IMPROVEMENT PROGRAMS

Organization
[GS 139-39, 139-40]

Elections. Any board of county commissioners may call a special election to determine whether the qualified voters of the county approve the levy of a special tax on property for watershed improvement purposes. It is not required that a petition be filed with the county commissioners as a prerequisite to the calling of an election. There is nothing to prevent the filing of such petitions, however, as an indication of interest in watershed improvement programs.

GS 139-40 provides that special elections for these purposes are to be controlled and supervised by the county board of elections. The section provides for registration of qualified voters, and for canvassing, certifying and announcing of election results, in accordance with the general election laws for local elections. It also sets forth provision for form of ballots and for notice of registration of new voters.

If a majority of the voters favors the tax, the county commissioners may (but are not required to) levy it. The special approval of the General Assembly is expressly granted by GS 139-40(d) and, accordingly, the tax may be levied without regard to the 20¢ constitutional tax limit.

Government of County Watershed Improvement Programs
[GS 139-41 (b), (c)]

Territorial Limitations. County watershed improvement programs may be operated directly by the county commissioners. In the alternative, the county commissioners may create for this purpose one or more watershed improvement commissions — a single commission for the entire county or one or more separate commissions for individual projects or watersheds within the county.

Selection and Compensation of Watershed Improvement Commissions. A watershed improvement commission is composed of three members appointed by the board of county commissioners to serve 6-year staggered terms. The commission must hold its first meeting within 30 days after its appointment. Its members receive the same compensation as watershed district trustees.

Powers

General. The board of commissioners of any county which has undertaken a county watershed improvement program may exercise all of the powers of soil conservation districts concerning flood prevention, development of water resources, floodwater and sediment damages, and the conservation, utilization and disposal of water, as set forth in subdivisions (1) to (3), (5) to (8) and (10) of GS 139-8. (These subdivisions confer authority, among other things to conduct investigations, to develop comprehensive water conservation plans, to construct and operate structures such as dams, to carry out works of improvement, and to require contributions from benefited land occupiers.) Counties engaging in such programs are also made subject to the limitations laid down in GS 139-8 (12) respecting diversion of water from one watershed to another, existing water rights, and similar matters.

Acquisition of Property. In the discussion of acquisition of property by watershed improvement districts it was concluded that the districts probably do not possess the power of eminent domain. In the case of counties conducting watershed improvement programs the issue is more in doubt, because neither the authority stated in subdivision (4) of GS 139-8, nor the limitation on that authority contained in subdivision (11) of the same section, was expressly made applicable to counties. Where this leaves the counties is not quite clear. To hazard a guess, however, it probably means that counties conducting watershed programs may purchase land and personal property under their general powers (GS 153-2), but (in light of pertinent case law) may not acquire

property through the exercise of eminent domain.

Financing
[GS 139-39, 139-40(d)]

County-wide ad valorem taxation is the sole method of financing available for county watershed improvement programs. The tax must be approved by the voters, as noted above, and the maximum annual rate allowed is 25¢ per $100 valuation. The law appears to permit a lesser maximum to be submitted to the voters and established by their votes. In any event the county commissioners may levy in any year a tax of less than 25¢ (or less than the amount approved by the electorate).

The law does not require the county commissioners to levy the tax, even after a favorable referendum, but leaves this in their discretion. Nor does the law fix any limit upon the number of years for which the tax may be levied.

Budgets and Accounting
[GS 139-41(b)]

It is required that every year the watershed commission furnish the board of county commissioners a proposed budget 30 days prior to July 1, for the ensuing year, and a CPA audit of its accounts within 60 days after expiration of the fiscal year ending June 30.

State Supervision
[GS 139-4(7), 139-41(d)]

Counties operating watershed improvement programs are, to the same extent as watershed improvement districts, subject to supervision by the State Soil Conservation Committee (as to applications for planning assistance under P.L. 566) and by the State Board of Water Resources (as to watershed work plans and reservoir operations).

* * * * * * * * *

Before moving on to the subject of drainage districts, a word should be said concerning some ways, in addition to the one just described, by which counties (and cities) may participate in or sponsor small watershed programs. Cities and counties can take part in small watershed activities under their general statutory powers, and some have done so, though any funds spent in this connection would have to come from sources other than the special tax authorized for county watershed programs by GS 139-39. As to counties, additional authority to spend non-tax revenues for such purposes may be found in Chapter 1213 of the 1959 Session Laws. That law authorized 64 named counties to cooperate with State and national soil conservation services, agencies or districts to promote soil conservation work, and to appropriate non-tax funds for this purpose.

Some counties may be able to proceed under GS 156-139, which confers certain drainage powers upon counties having a population of over 100,000. An annual tax of 2¢ per $100 valuation may be levied therefor.

Finally, the new legislation spells out authority for cities and counties to take part financially or otherwise in the programs of watershed improvement districts, in cases where flood control, water supply or drainage benefits would accrue to the participating city or county. (GS 139-37) This may establish an avenue for county or city participation where county-wide watershed improvement programs would not be feasible. Authority for similar participation by other public and private entities is also included.

DRAINAGE DISTRICTS

EXISTING DISTRICTS

Some watershed improvement activities involving drainage work can be conducted by *existing* drainage districts. In connection with these activities some existing districts have received Federal assistance under P.L. 566 for planning and operations. However, as will be pointed out in the discussion of powers of drainage districts, the statutory authority of the existing districts appears to be limited to customary drainage and land reclamation work. The authority of *newly organized* districts, under amendments to the drainage district law adopted in 1959, is somewhat broader and includes certain powers needed in connection with more comprehensive watershed improvement programs. Accordingly, the remainder of this discussion will be devoted principally to the organization and functioning of new drainage districts.

NEW DISTRICTS
Organizations of New Drainage Districts
[GS 156-54 to 156-78]

Filing of Petition and Bond. The first step that must be taken in organizing a drainage district is to obtain petition signatures by a majority of the resident landowners in the proposed district, or by the owners of 3/5 of the land which will be affected or assessed. Among other things, the petition must so describe the territory of the proposed district as to convey "an intelligent idea" as to its location; must indicate the purposes of the proposed drainage; and must identify the route of the proposed improvement.

The petition is filed in the office of the clerk of superior court of any county in which a part of the lands is located. With the petition there must be filed a surety bond for the expenses of the proceedings in the amount of $50 per mile of proposed improvement.

Selection of Board of Viewers and Attorney. After certain publication requirements have been met (see GS 156-57, 156-58), the clerk appoints a board of viewers, composed of two resident freeholders of the county or counties within which the land is located and a civil-drainage engineer recommended by the State Board of Conservaton and Development. No member of the board of viewers may own land within the proposed district. In addition, an attorney to prosecute the proceedings must be selected by the petitioners or, if they cannot agree, by the clerk.

After he appoints the viewers, the clerk must estimate the probable expenses of the board of viewers and of the attorney. He must then assess these expenses against the petitioners at a level rate per acre of land, and the assessment must be paid before the proceedings can continue.

Members of the board of viewers, other than the engineer, are compensated in an amount fixed by the clerk, and they also receive actual and necessary travel and subsistence expenses while in the discharge of their duties. The clerk fixes the compensation of the engineer and his assistants, after consulting with the petitioners and the Department of Conservation and Development.

Functions of Board of Viewers. The initial task of the board of viewers is to examine the lands involved and report upon the feasibility of the proposal. If the report is a favorable one and is entertained by the clerk, it will be further considered by him after a public hearing at which objections may be offered. Appropriate adjustments may be made at or after the hearing in the proposed boundaries and drainage works. If the clerk is then satisfied that the petition is sufficient, the establishment of the district shall be declared.

Once a district is thus established, the viewers are required within 60 days (1) to make a complete survey and prepare plans and specifications for the

COMPARISON OF ALTERNATIVE WATERSHED IMPROVEMENT PROCEDURES UNDER 1959 LEGISLATION

	Watershed Improvement Districts	County Watershed Programs	Drainage Districts
Organization Petitions	Petitions signed by 100 landowners (or majority if total owners less than 200) and filed with SCD supervisors	No petitions required	Petitions signed by majority of resident landowners, or by owners of 3/5 of affected land, and filed with CSC
Elections Called By	SCD supervisors	BCC	
Conducted By	County election authorities[1]	County board of elections	No provision is made for a referendum, but CSC must appoint board of viewers to report concerning feasibility of district, and petitioners or CSC must select attorney to prosecute proceedings
Eligible Voters	Owners of land within boundaries of district, including corporations and fiduciaries	Qualified voters of county	
Effect of Election	Supervisors may approve petition if majority of voters in referendum and majority in number of petitioners voted favorably	BCC may levy special tax for watershed purposes if majority of voters in referendum voted favorably	
Territorial Limitations	Watersheds within one or more SCD's	Must be within county. May be limited to individual project or watershed	No statutory limit. Limits fixed by petitioners and approved by court
Governing Body Name & Composition	3 member board of trustees	BCC or 3 member CWIC	3 member board of drainage commissioners
Method of Selection & Terms	Initial trustees appointed by SCD supervisors. Successors elected at general elections by qualified voters residing in district for 6-yr. staggered terms	CWIC approinted by BCC for 6-yr. staggered terms	In discretion of CSC, commissioners are appointed by CSC or elected at special elections by district landowners (votes weighted according to acreage owned). 3-yr. staggered terms in either case
Powers In general	All powers of SCD's (GS 139-8) (Includes various flood prevention and soil and water conservation measures, such as making investigations and plans, building dams, etc.)	All powers of SCD's under subdivs. (1) to (3), (5) to (8) and (10) concerning flood prevention and other water resource matters	Specified drainage and land reclamation powers plus authority to construct water retardant structures to control flows in canals
Method of Acquiring Property	Purchase, exchange, gift, etc. but apparently not by condemnation[2]	Not specified[3]	Purchase, agreement, gift, etc. and by condemnation
Financing	Benefit assessments not exceeding $5 per acre annually levied by trustees against lands within district. Also may borrow and issue bonds	Special ad val tax not exceeding 25c per $100 valuation annually levied by BCC against taxable property in county	Benefit assessments levied by CSC (for organizational expenses, at level rate per acre), and by drainage commissioners (for the improvements and, at not over $1 per acre per year, for maintenance). Bonds or notes must be issued for the improvement if total cost exceeds 25c per acre
Budgets and Accounting	Trustees required to prepare estimates of expenses prior to levying assessments and to provide for annual audit	CWIC must furnish BCC with proposed budget and CPA audit annually, by specified dates	Cost of original construction plus 3 yrs. maintenance must be furnished to CSC. CSC approves maintenance assessments. Annual reports and monthly reports during construction must be filed with CSC. Annual audit by BCC appointed auditor required
State Supervision	Applications for planning assistance under P.L. 566 must be approved by SSCC; watershed work plans, approved by SBWR. Reservoir operations subject to limited SBWR supervision. Bond sales supervised by LGC	Same as WID's	Applications for planning assistance under P.L. 566 must be approved by SSCC. No statutory supervision by SBWR. Bond sales supervised by LGC

* Footnotes and abbreviations on page 7

improvements; (2) to assess any damages claimed to result; and (3) to examine and classify the land in the district with reference to the benefits it will receive from the improvements. The land must be separated into 5 classes according to relative benefits, and classified in a 5-4-3-2-1 ratio. Departures from this fixed classification scale are permitted only for village, town and suburban residential lands, or for other lands not agriculturally benefited. A final report must be prepared by the viewers and filed with the clerk, who must pass upon it. With the submission of this report, the work of the board of viewers is completed.

Territorial Limitations. There is no statutory restriction upon the area within which a drainage district may be organized. The territorial limits of a district are left to be determined by the petition, with any modifications ordered by the clerk.

District Governing Body
[GS 156-79 to 156-81]

Selection. A drainage district, once organized, is governed by a 3-man board of drainage commissioners, whose members serve 3-year staggered terms. In the discretion of the clerk of superior court, this board may be elected by the district landowners or appointed by the clerk. Any such elections are conducted under rules laid down by the clerk, not under the general election laws. Each landowner's vote is weighted in proportion to the number of benefited acres he owns.

Compensation. The compensation of the chairman of the drainage commissioners is fixed by the clerk. The other two commissioners receive a per diem of not over $12 for attendance at board meetings and during the discharge of other official duties. The secretary of the board, who may be one of its members, receives compensation and allowances determined by the board. All of the commisssioners, including the chairman, are paid their actual travel and subsistence expenses for attendance at board meetings and during the discharge of other official duties.

Powers
[§§54, 56, 62, 69, 71, 88, 89, 92, 93 135 and 156 of GS Ch. 156]

General. The basic powers of drainage districts are set forth in GS 156-54 and repeated or elaborated in the other sections listed above. These provisions contemplate that the districts may build levees, embankments, ditches, drains and canals; may widen, deepen, straighten or improve natural watercourses, channels, drains and ditches; and may erect tidal gates and pumping plants. These powers may be exercised to reclaim lands not fit for cultivation or to improve lands under cultivation. In the words of the North Carolina Supreme Court, the legislation "seems to present a scheme for the drainage of these lowlands at once comprehensive, adequate and efficient." *Sanderlin v. Luken*, 152 N.C. 738, 743 (1910).

There being some doubt that the legislation permitted drainage districts to construct dams or reservoirs for flood control or water conservation, the Deputy State Conservationist inquired of the Attorney General in 1958 whether drainage districts could assess land "for the maintenance and operation of floodwater retarding structures built under the provisions of Public Law 566". In a response dated January 16, 1958, the Attorney General, after reviewing the pertinent statutory provisions, stated:

> From the foregoing it would seem that drainage districts are presently authorized to maintain and make assessments for improvements for drainage purposes only and are not authorized to maintain and make assessments for flood control. It seems to me that the statutes ought to be amended so as to specifically authorize the maintenance and the levy of assessments for water retarding structures but as stated, it seems very doubtful that such is authorized by the present law.

Perhaps in response to this prompting, amendments to the drainage district law were enacted in 1959 under which the board of viewers is directed to consider the need and feasibility of, and may recommend, the construction of "water retardant structures which shall control the flow of water in proposed canals". S.L. 1959, Ch. 597. Presumably, after such a recommendation, an organized district would be entitled to build such structures, although this authority is not spelled out.

Two features of this amendment deserve comment. First, because action by the board of viewers is required in order to initiate construction of water retardant structures, it would seem that the amendment speaks only to the powers of new districts and does nothing to enlarge the powers of existing districts. Thus the ability of existing districts to build dams and reservoirs for purposes other than drainage remains in doubt. Second, even as to the authority of new districts the effect of the amendment is not completely clear. The authorization is limited by its terms to structures which shall control water flows in proposed canals. While the word "canal" might be interpreted to include canalized natural watercourses as well as artificial canals, it can hardly be stretched to cover an ordinary natural stream that is not to be canalized. Accordingly, the amendment does not appear to empower new or old drainage districts to construct flood control or water conservation dams or reservoirs in ordinary, non-canalized natural streams (unless, perhaps, in those instances where a dam in a stream may act to control flows in a related drainage canal). To that extent, as well as in regard to soil and water conservation measures generally, the powers of drainage districts fall short of those conferred upon watershed improvement districts.

Acquisition of Property (GS 156-67, 157-70.1 and 156-138.1). Ever since the enactment of the original drainage district law in 1909 the districts have been expressly empowered to condemn necessary drainage outlets or rights-of-way over lands not affected by the drainage. In 1957 this authority was expanded to permit acquisition by purchase or, if necessary, by condemnation of any lands necessary or convenient to enable a district to accomplish its purposes. It was further supplemented

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Abbreviations. The following abbreviations are used in this chart: BCC - board of county commissioners; CSC - clerk of superior court; CWIC - county watershed improvement commission; GS - North Carolina General Statutes; LGC - Local Government Commission; P.L. - Public Laws (U.S.); SBWR - State Board of Water Resources; SCD - soil conservation district; SSCC - State Soil Conservation Committee; WID - watershed improvement district.

Footnotes.

1. The term "county election authorities" means whatever authority is designated by the board of county commissioners to conduct the referendum, and may be the board of county commissioners itself, the county elections board, or others.
2. The power of condemnation was not expressly granted to watershed improvement districts, and, as pointed out elsewhere in this article, it has been generally assumed that the districts do not possess such authority.
3. As pointed out elsewhere in this article, the methods by which counties may acquire property for watershed improvement purposes are not spelled out by the law.

in 1959 by an amendment establishing a procedure whereby districts are deemed to have acquired easement or right-of-way title (subject to later compensation) to areas of land identified in the final report of the board of viewers.

Financing

[§§ 61, 71, 92 and 93.1 of GS Ch. 156]

The provision for financing of organizational expenses by a level rate assessment has been previously mentioned.

For permanent financing the ultimate source of all district revenues consists of benefit assessments. These assessments are levied by the drainage commissioners on the basis of the land classification that was made by the board of viewers. The first levy must include the total cost of the improvement, plus an allowance for maintenance expenses for three years after construction is completed. If the total cost of the improvement is less than an average of 25¢ per acre levy on all lands in the district, the full initial assessment must be levied forthwith. However, if the total cost exceeds such a 25¢ levy, funds to meet the cost must be raised in the first instance by issuance of bonds or assessment anticipation notes. So that payments on the bonds or notes may be met as they come due, it is required that an assessment be levied during every year when interest or principal on the obligations is due. The assessment must be calculated to yield 10% more than the total interest and principal due during the year. A landowner may save himself the expense of interest by paying off within a prescribed time the full amount for which his land is liable.

In addition to the initial assessment the drainage commissioners may levy annual maintenance assessments for canal maintenance and district operating expenses approved by the clerk. Maintenance assessments are spread in the same ratio as the initial assessment, but they may not exceed $1.00 per acre per year.

The procedures for issuing bonds or notes and for collecting assessment are to be found in §§ 92, 93.1, and 94 to 128 of GS Chapter 156. For present purposes it is enough to note (1) that the assessments are collected by the county tax collector in the same manner as county taxes; (2) that, unlike the procedure for watershed districts, assessment receipts are paid over monthly to the county treasurer, who must make the payments on the bonds and must honor proper warrants drawn on the funds; (3) that, unlike the procedure under the watershed district law, it is not the function of the district but rather of the clerk and county tax collector, respectively, to prepare and mail assessment receipts (though in practice these functions are frequently performed by the districts); (4) that, unlike the comparable provision for watershed districts, no collection fee is paid to the county when the tax collector is on a salaried basis; and (5) that, also unlike the comparable provision for watershed districts, drainage district assessments constitute a "first and paramount lien, second only to State and county taxes, upon the lands assessed for the payment of the bonds and interest thereon as they become due" (GS 156-105).

Budgets and Accounting

[§§ 83, 93.1, 94, and 130 to 134 of GS Ch. 156]

The only budgetary requirements of the law have been mentioned earlier. That is, as one of their first tasks the drainage commissioners must ascertain the total cost of the projected improvements. They must report to the clerk this amount, together with an estimate of maintenance expenses for three years, for inspection by interested landowners. Also, if the drainage commissioners later levy maintenance assessments, they must obtain the clerk's approval of the amount levied, and the clerk must approve district maintenance and operating expenses for which these assessments are paid out.

The law requires that the drainage commissioners file with the clerk an annual report of receipts and expenditures. During construction the commissioners must likewise file and publish monthly statements of receipts and expenditures.

A drainage district auditor must be appointed annually by the board of county commissioners to examine and report concerning the drainage assessment rolls, the collection records and the books of the county treasurer. For his services the auditor is paid a sum fixed by the county commissioners, but not over $200 a year.

Procedures During Construction

[GS 156-83 to 156-93]

The drainage commissioners are required by the law to appoint a superintendent of construction. He must be a competent drainage engineer approved by the State Board of Conservation and Development. (A 1959 amendment permits the services of the superintendent to be performed by the U. S. Soil Conservation Service or other Federal agencies. SL 1959, Ch. 597). The details of procedures to be followed during construction are set forth in Article 7 of the drainage district law, which covers such matters as letting contracts, making payments and estimates, entering lands, and draining across public ways and railroads.

State Supervision

[GS 139-4(7), 139-35]

Applications by drainage districts for planning assistance under P.L. 566 must be approved by the State Soil Conservation Committee, and their bond sales are supervised by the Local Government Commission. Unlike watershed improvement districts, though, under the 1959 legislation drainage districts are apparently not made subject to review by the State Board of Water Resources of watershed work plans and reservoir operations.[3]

* * * * * * * * *

The chart on page six is included to highlight the major differences under the 1959 legislation in organization and powers of watershed improvement districts, drainage districts and counties operating watershed improvement programs. It does not attempt to cover small watershed programs sponsored by soil conservation districts, or by cities or counties acting under their general powers, or any combination of these.

COMPARISON OF THE RESPECTIVE APPROACHES

There follows a summary of some of the more apparent advantages and disadvantages of the alternative methods of carrying on small watershed programs under the 1959 laws.

Powers

In the breadth of their general pow-

[3]. As to watershed work plans the law is perhaps not completely clear. The first sentence of subsection (c) of GS 139-35, read literally, requires that all watershed work plans be reviewed by the Board of Water Resources. Taken in the context of the entire section, though — especially in light of subsection (a) and of the second sentence of subsection (c) — this power of review seems to fall short of drainage district work plans. Whatever the proper interpretation of the statute, however, drainage district work plans may in practice come under the scrutiny of the Water Resources Department. A Federal regulation requires that *all* work plans be sent to the Governor for review and comment. It would come as no surprise if the Governor delegated this function to the Water Resources Department.

ers for soil and water conservation and flood prevention programs, the watershed improvement districts enjoy some advantages over the county method of operation and a distinct advantage over the drainage districts. Indeed, the present powers of the drainage districts in some, perhaps many, instances may prove unequal to the work which watershed improvement sponsors would like to undertake.

On the other hand the drainage districts, by virtue of possessing the power of eminent domain, may be the only agencies which can do any kind of a job in some areas of the state — at least, unless the watershed district law is amended to incorporate this power.

Coordination of Related Land and Water Programs

It should be easier to achieve effective coordination of related soil conservation, and water control and conservation, measures within the framework of a watershed improvement district than under a county or drainage district operation. This is only to state the obvious. It deserves mention, however, because of its bearing upon the overall effect of the program, and because such coordination is necessary in order to obtain Federal aid grants under Public Law 566. (To qualify for grants, local organizations must obtain agreements to carry out recommended soil conservation measures from owners of not less than 50% of the land in the drainage area above each reservoir.)

Financing

Here the notable contrast is between the watershed and drainage districts on the one hand, whose basic revenue source is benefit assessments, and county programs on the other hand, financed solely by county-wide ad valorem taxes.

This is a crucial difference. Because of the tax feature, coupled with the requirement for a county-wide referendum and the customary geography of small watersheds, serious consideration will probably be given to organizing county programs under the new law only in rare instances. As a practical matter, little hope can be held of winning a county-wide referendum unless it clearly appears that the benefits of the work will reach a majority of the county's taxpaying voters.

If this hurdle can be cleared, however, the advantages of the county operated program are many—relative ease of organization; a relatively stable form of government; the ability to spread costs over a larger number of taxpayers. In addition, ad valorem taxation is much less vulnerable to attack on legal grounds than are benefit assessments. That is, it is far easier to litigate individual grievances against benefit assessments, and the classifications on which they are based, than it is to litigate individual grievances against ad valorem taxes.

As pointed out earlier, there are other avenues for county participation in small watershed work (in addition to the county watershed program approach) which do not require the holding of referenda. However, the special tax authority granted by the 1959 legislation is not available where these other avenues are followed.

As between the watershed and drainage districts, one difference which has attracted much attention lies in the methods of classifying land for assessment. Under the drainage district law the classification must be on a strict 5-4-3-2-1 basis, with minor exceptions. The watershed district law leaves the relative proportions in the discretion of the classifying officers. It was the expressed belief of the sponsors of the watershed district law that the rigid classification required by the drainage district law was unacceptable to most farmers and their legislative representatives. Nonetheless, experience with benefit assessment laws generally suggests that some rule of thumb, such as that used by the drainage district law, has usually proved necessary for practical administration.

One further difference worthy of mention is that the drainage district law permits assessments against benefited land in non-agricultural use (without regard to the 5-4-3-2-1 ratio), while the watershed district law does not. From the point of view of farmers, who will play a principal role in most watershed improvement programs, this has its pros as well as its cons. Under the drainage district law they may be able to compel contributions from some benefited non-farmer landowners who could not be reached under the watershed district law. Frequently, however, this would be at the cost of loss of control over the program.

Organization

In matters of organization the county operation is clearly to be preferred, for its simplicity. While it may be difficult to win a county-wide referendum, once this is done the organizing work is practically completed. There is no petition to prepare and circulate, no district boundary to be defined, no board of viewers to appoint, no quasi-judicial findings to be made and perhaps subjected to judicial review. The organizers of a drainage or watershed district must be prepared to endure mountains of red tape. The drainage district route is perhaps slightly to be preferred in this respect, but only because of having been tried and tested over a half-century period.

State Supervision

The statutes subject watershed districts and counties, but not drainage districts, to limited supervision by the State Board of Water Resources.[4] This supervision may have long-run merits, even from the point of view of organizers of watershed improvement programs, if it helps to gain wider public acceptance of the programs. In the eyes of most people, however, the advantage if any will lie with the drainage districts, because they are not subjected to this form of State control.

* * * * * * * *

The surest conclusion that emerges is that each alternative approach has its advantages and disadvantages, and has its part to play. There will perhaps be times when each approach is the "best" available—the county operated program, whenever circumstances are favorable to its use; the drainage district, wherever the element of drainage predominates or where action is otherwise stymied for lack of the power of eminent domain; and the watershed improvement district, as a general purpose vehicle for small watershed work in most situations. More positive claims than these must await experience.

[4] See also in this connection footnote 3 on page 8, to the effect that in practice the drainage districts may also come under this supervision in part.

NORTH CAROLINA DOWNTOWN SCOREBOARD

North Carolina cities in increasing numbers are catching the "do something about downtown" fever which is spreading rapidly all over the country. Thus far, except for Mooresville whose widely publicized downtown revitalization plan is now almost three years old, the Tarheel cities are still in the early talking, floundering, and beginning planning stages of programs ranging from limited to ambitious.

Some are thinking primarily in terms of surface treatment—taking down signs, installing canopies and new store fronts, bringing in some greenery, or trying out the now fashionable (but not universally applicable) pedestrian mall. Others are on the threshold of all-out plans for major changes downtown.

Noted here are some of the more recent developments on the downtown North Carolina scene which have taken place since our last "Progress Report" on this subject in the March 1959 *Popular Government*.

• BURLINGTON

An Urban Renewal Committee has been set up in the Burlington Chamber of Commerce. The main object of this committee, whose membership is composed of property owners in the downtown area, is "to revitalize downtown Burlington."

• CHAPEL HILL

The Chapel Hill Improvement Commission was organized late in October (1959) "to direct the orderly development of the downtown area." Mayor Ollie Cornwell has announced the appointment of a six-man executive committee to head the new independent organization. Mayor Cornwell will also serve on the executive committee.

• CHARLOTTE

Charlotte Uptown Association has bowed to public opinion and rechristened itself Downtown Charlotte Association. Executive secretary, Walter Camper, has been retained. Business leader E. J. Dowd brought back an enthusiastic report after visiting Toledo's experimental mall. Interested groups, including the Merchants Association, the Appearance and Improvement Committee of the Chamber of Commerce, and the Downtown Association, considered mall experiment for Charlotte. Latest development—Chamber rejected idea as "premature" and impractical. Charlottetown Mall, a 42 store regional in-town shopping center all under one roof, opened to the public on October 28, 1959. This development, located one mile southeast of the central business district, contains two department stores, and may be expected to give central business district merchants strong competition for the Charlotte trade.

• DURHAM

Downtown Development Association has raised necessary funds and retained Julian Tarrant, consulting city planner, "to develop a comprehensive plan for the central business district." Latest development—a preliminary "rough" proposal for a pedestrian mall for the central business district and a downtown governmental center with an "expansive plaza" has been made public. Reaction to the proposal has been mixed but, in general, reservedly favorable. However, in the face of this preliminary recommendation to construct a new city government building, the City Council has voted nine to four authorizing the city administration to move ahead on obtaining plans and cost estimates for improvements to the present City Hall.

The Durham Council of Architects has offered the City its services in an advisory capacity in phases of planning and study for the downtown development program.

• GREENSBORO

Three teams of local architects are developing alternate proposals for a uniform canopy system to protect shoppers from rainfall in downtown Greensboro. Members of the Chamber of Commerce's Downtown Improvements Committee visited Toledo's mall. Possibilities of a mall for Greensboro's Elm Street are being studied. Announcement of a projected regional shopping center, to occupy a 70 acre tract in the southwestern section of the City, gives promise of strong future competition to downtown Greensboro.

By Ruth L. Mace, Research Associate

• HIGH POINT

High Point Chamber of Commerce, Merchants Association, and Real Estate Board appointed joint 27-member committee to be responsible for downtown development. Its "objective will be to establish a program which has as its purpose an economically, culturally and socially strong downtown." The Downtown Development Committee was set up following participation by High Point's business leaders in a Kansas City clinic on downtown renewal, sponsored by the National Retail Merchants Association. The Committee has already acted to study and strongly recommend to the Mayor and the City Council the adoption of a system of one way streets for a 90-day trial period and related traffic engineering improvements. The City Planning Department is working on a preliminary study and plan for downtown High Point to be presented to the Downtown Development Committee early in 1960.

• MOORESVILLE

Business interests are moving ahead with their phase of the public-private cooperative venture. Exterior and interior remodeling of stores in one full block has gotten under way. New store fronts of porcelain enamel panels broken by vertical aluminum mullions are being installed, together with open steel deck canopies of contemporary design which will extend from the buildings to the curb. Merchants and property owners in the second block are becoming increasingly interested in carrying this phase of the program forward. When all interests in this block are agreed, remodeling of the second complete block will get under way. The City continues its efforts to provide additional parking spaces as specified in the plan, and a proposed urban renewal program for an area adjacent to the business district will, among other things, make possible some of the needed street improvements in order to close Main Street to traffic and construct the suggested pedestrian mall.

• RALEIGH

As a public service feature, radio station WPTF developed a program outlining the local situation which has resulted in a mall proposal (dormant, at present) for Raleigh. The broadcast features recorded reactions of local merchants to the Toledo mall experiment. A taped recording of this broadcast, which runs about 14 minutes, may be borrowed from WPTF.

• WINSTON-SALEM

City-County Planning Board and Total Development Committee of the Chamber of Commerce (lead group in promoting over-all downtown revitalization) have received report of a special planning consultant on study of Winston-Salem business district and a plan to serve "as a starting point for discussion and a base on which business and government can develop a comprehensive plan."

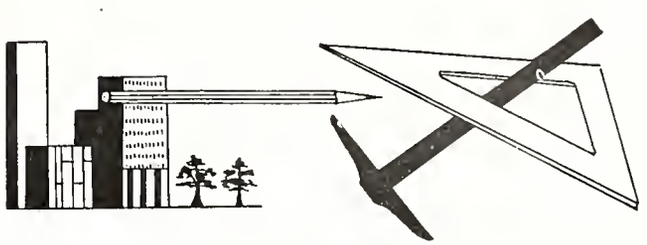
Next moves of the Total Development Committee as outlined by its chairman, Meade S. Willis, Jr., are as follows: (1) Select a professional coordinator to handle downtown planning and renewal. (2) Organize downtown planning and advisory committees, including divisions on codes and ordinances, public relations, publicity, transportation and traffic. (3) Complete selection of a downtown planning team. (4) Establish a new zoning ordinance plan and long-range private and public improvement programs. (5) Establish a permanent Greater Winston-Salem Committee to help carry out the plan after it is developed. The Total Development Committee hopes to tie downtown revitalization into the City's over-all urban renewal program.

The Shop Downtown Committee is circularizing Trade Street merchants for their signatures to a petition for a trial mall on Trade Street.

Extensive newspaper coverage is being given to the projected downtown program, including a series of feature articles in *Twin City Sentinel* which described downtown pedestrian mall plans and programs, and discussed pros and cons of this scheme.

* * * *

And in . . . . *Hickory, Statesville, Morganton* and *Chapel Hill* editorial writers are talking malls. In *Lexington* central business district revitalization is a major project of the local chamber of commerce. In *Kinston* and *Salisbury* central business districts will receive special attention during the course of comprehensive planning studies currently underway under 701 federal grant planning assistance programs. *Laurinburg's* proposed urban renewal project will contribute to a revitalized downtown.



PUBLIC OFFICIALS' BOND

by John Alexander McMahon

One of the toughest questions facing governmental officials is this: What should be the size of the bonds covering the various officials and employees? For years, the Institute of Government has seen this question raised in many ways. County commissioners and members of city governing boards ask how large should be the individual bond covering the tax collector, the treasurer, or the accountant. And governing board members as well as the major officers ask how much blanket coverage should be obtained for employees in the respective offices.

In answer to these inquiries, the Institute has had to rely on the only rule of thumb available, and that one is vague. The rule suggests that, in the absence of express statutory provision, bonding coverage should be equal to the total amount of money on hand at any one time, with additional consideration being given to the possibility of cumulative losses. This rule of thumb, however, has been unsatisfactory for several reasons.

In the first place, there is no way to evaluate the possibility that the total amount on hand at any one time could, in fact, be stolen. For example, consider the case of a tax collector who receives a huge payment from one taxpayer, with the payment made by check drawn in favor of the governmental unit, and with the check in turn deposited to an account where it passes from the control of the tax collector to the control of some other officer; in such circumstances, it is practically impossible for the tax collector to abscond with the tax payment. Moreover, there has been no way to take into account the possibility of cumulative losses, because much will depend on the internal control as well as on other factors.

* This article was written by Mr. McMahon, now General Counsel of the North Carolina Association of County Commissioners, while he was a member of the Institute of Government staff.

A NEW FORMULA

Recently, a formula has been developed to suggest a more definite figure for the amount of coverage. In addition, the formula has the advantage of simplicity. It still, of course, does not answer the whole problem, and an on-the-scene examination by an experienced surety man is recommended. But the formula does give a beginning point for the study of this very difficult question.

The formula grew out of a survey made by the Surety Association of America. The Association studied losses of $10,000 or more actually sustained by insured commercial concerns over a period of ten years. The survey revealed that in 65% of the losses, the insured did not carry a bond large enough to cover the loss. The survey made clear that there was no way to determine the maximum possible loss which might be sustained, but it was possible to relate certain factors to the amounts which had been stolen in a large number of actual instances. The formula developed an Exposure Index for determining the amount of bond coverage.

While the formula grew out of studies of private business, it has in turn been applied to governmental units by following the same general principles that were applied to private business.

HOW THE FORMULA WORKS

Here is the way the formula works, when applied to a governmental office:

(1) Calculate the amount of gross annual receipts.

(2) Add to the gross annual receipts, the market value of all negotiable securities, if any, in possession of the office, whether they be owned by the government or whether they be collateral security tendered to secure bank deposit.

(3) Take 10% of the total of (1) plus (2). This represents the Exposure Index.

(4) From the table on the opposite page, determine the appropriate bond penalty.

The Exposure Index continues on to $500,000,000, but the above table is sufficient to cover county and municipal operations in North Carolina.

This formula applies to faithful performance bonds as well as to honesty bonds. Counties must by law obtain faithful performance bonds, while cities are authorized to use honesty bonds if the governing body so desires. In either event, the formula operates in the same fashion.

The formula can be used to determine the appropriate bonds for tax collectors, for treasurers, and for county accountants or municipal accountants, whether or not the accountant also serves as treasurer. In addition, the formula will work with other departments which collect fees for their services. Moreover, the formula will apply to an individual bond, obtained by a particular officer in order to qualify for office, and it will also apply to blanket bonds covering many officers and employees. Where a number of departments are covered under a blanket bond, the Exposure Index would be determined for each department; a basic bond would then be determined on the basis of the lowest Exposure Index, and excess coverage would be added for those departments with a higher Exposure Index.

APPLYING THE FORMULA

Several examples may make the application of the formula clearer. First, consider a county whose tax collector annually collects $2,000,000 in taxes. Suppose further, that there is a county treasurer who receives and accounts for the taxes, as well as for $1,000,000 in revenue from other than tax sources. The treasurer and the accountant both sign checks, and as a consequence pay out $3,000,000 each year. The clerk of superior court, register of deeds, sheriff, county court, and several other departments each handle less than $100,000 annually. The Exposure Index for the tax collector would be $200,000 (10% of $2,000,000). The Exposure Index for both the treasurer and the county accountant, if they had control of no negotiable securities, would be $300,000 each (10% of $3,000,000). [In case there were no treasurer, and the county accountant handled all of the funds, his Exposure Index would be the same—$300,000.] The Exposure Index of the other officers handling money would be not more than $10,000 (10% of $100,000).

Exposure Index	Amount of Bond
$ 0 to $ 25,000	$ 15,000 to 25,000
25,000 to 125,000	25,000 to 50,000
125,000 to 250,000	50,000 to 75,000
250,000 to 500,000	75,000 to 100,000
500,000 to 750,000	100,000 to 125,000
750,000 to 1,000,000	125,000 to 150,000
1,000,000 to 1,375,000	150,000 to 175,000
1,375,000 to 1,750,000	175,000 to 200,000
1,750,000 to 2,125,000	200,000 to 225,000
2,125,000 to 2,500,000	225,000 to 250,000

Similarly, the Exposure Index of the employees in the tax office, the treasurer's office, the accountant's office, and the other offices would be the same as that of the principal officer.

Using the table previously set out, the tax collector's bond should be between $50,000 and $75,000, and a bond of $65,000 would be appropriate; the $65,000 figure is determined by figuring that the Exposure Index of $200,000 is slightly more than half way through the range that begins with $125,000 and has a top figure of $250,000. Similarly, the bond of the treasurer and accountant should be between $75,000 and $100,000, and a bond of $80,000 would be appropriate. Bonds for the other major officers might run between $15,000 and $20,000, depending upon the exact Exposure Index. Of course, the bond of some of these officers is set by statute, and if a lower bond amount is provided by statute than results from the formula, consideration should be given to amending the statute to increase the statutory limit.

In the same fashion, a blanket bond of between $15,000 and $20,000 should be obtained covering all county employees, with excess coverage for the tax office and for the employees in the treasurer's and county accountant's offices to bring those employees up to the same coverage as that provided for the tax collector, treasurer, and accountant respectively.

Taking a municipal example, assume that the city tax collector receives $1,000,000 annually; that the utility office collects $1,000,000 in utility bills annually; that other departments collect or receive $500,000 annually; and that the treasurer and accountant handle $2,500,000 each year. The tax collector's Exposure Index would be $100,000, and a bond between $25,000 and $50,000 would be appropriate. The bond might appropriately be fixed at $45,000. A similar bond would be appropiate to cover the individual responsible for collecting utility bills.

The treasurer and accountant would have an Exposure Index of $250,000, and should each have a bond of $75,000. And individual Exposure Indices would be determined for other officers collecting money.

In the same fashion, a blanket bond of $15,000 might be obtained covering all employees, with excess coverage in the tax office totaling $30,000, to bring the employees in that office up to the coverage of the tax collector; excess coverage in the utility collection office in an amount similar to that of the tax collector; and excess coverage for the employees of the treasurer and accountant of $60,000, to bring those employees up to a total coverage of $75,000.

SUMMARY

The formula described above was developed by the Surety Association of America from its studies of exposure in private business. This formula is a clear warning that bond coverage may be far too low in some counties and municipalities at the present time.

All counties and municipalities should analyze their individual and blanket bonds in the light of this formula. In the process, they should consult with the agents who write their bonds, in order to analyze any peculiar circumstances that might modify the formula as applied to their particular situation. Moreover, these agents in turn may obtain experienced help from the companies they serve. The formula is of course only a guide, and it does not pretend to be applicable to every situation without modification.

It would be wise for governmental officials studying this question to keep in mind the losses that have occurred to other governments and to private business concerns. They should take the necessary steps to protect the taxpayers who would in the last analysis have to foot the bill for any uninsured loss.

BOND SALES

From July through October 20, 1959, the Local Government Commission sold bonds for the following governmental units. The unit, the amount of bonds, the purpose for which the bonds were issued, and the effective interest rate are indicated.

Unit	Amount	Purpose	Rate
Cary	$ 215,000	Street improvement and water and sewer	4.5
Graham	300,000	Water and sanitary sewer	4.1
Jackson	10,000	Water	4.4
Lake Waccamaw	30,000	Fire fighting apparatus and town hall	4.9
Newton	50,000	Water	3.0
Salisbury	111,000	Water and sewer	3.5
Sanford	200,000	Water	4.3
Sharpsburg	120,000	Water	4.6
Tarboro	737,000	Street improvement, electric and sanitary systems	3.7
Chatham County	750,000	School building	3.7
Guilford County	6,000,000	School building	3.4
Henderson County	625,000	School building	4.7
New Hanover County	1,000,000	School building	3.5
Yadkin County	150,000	County hospital	3.7
Pitt County	675,000	County hospital	3.2
Rockingham County	3,000,000	School building	3.7
Clinton School District (Sampson County)	300,000	Building bonds	4.4
Hot Springs School District (Madison County)	36,000	School	4.7
Louisburg Township (District of Franklin County)	350,000	School	4.8
Parkwood Sanitary District (Cabarrus County)	162,000	Water and sewer	4.7

HIGHWAY PATROL TRAINING -- 1959

The 1959 series of North Carolina State Highway Patrol Schools, traditional features of the Institute of Government's continuing program of research and training in highway safety for the North Carolina Department of Motor Vehicles, closed on October 9, 1959, with graduation exercises for 50 basic trainees at the Institute's Joseph Palmer Knapp Building in Chapel Hill.

Speakers at the graduation ceremonies included Malcolm B. Seawell, Attorney General of North Carolina, and Colonel James R. Smith, Patrol Commander. Albert Coates, Director of the Institute of Government, presided over the exercises, which culminated 12 weeks of intensive law enforcement training. Graduates received their training certificates from Robert Montgomery, Jr., Assistant Director of the Institute, who was in charge of all 1959 Patrol training for the Institute of Government.

The Patrol Training Program annually conducted by the Institute includes both in-service and basic training schools. This year's school commandants, assigned by Colonel Smith, were Lieutenant T. B. Brown for in-service training and Sergeants C. E. Whitfield and R. F. Williamson, commandant and assistant commandant respectively, for basic training. The combined schools, reaching every member of the now 606-man Patrol (the 1959 General Assembly boosted the authorized personnel strength from a previous 581) accounted for a total of 52,350 man-hours of training.

IN-SERVICE TRAINING

Veteran members of the Patrol began their refresher training on July 12 with a 40-hour program for commissioned officers, followed by a 40-hour session for non-commissioned officers. The in-service training was completed on August 15 with the closing of the last in a series of eight consecutive 3-day programs, providing 30 hours of training for each patrolman.

Primarily emphasized in refresher training, as usual in legislative years, were changes made in the motor vehicle laws, and related laws, by the 1959 General Assembly of North Carolina. This aspect of training was conducted by Assistant Directors Robert Midgette, Joseph Hennessee, Roy Hall, Dexter Watts and Robert Montgomery, Jr., of the Institute of Government. Continuing courses in traffic police organization and management, conducted by Assistant Director Neal Forney of the Institute and Patrol Commander James R. Smith, filled a substantial portion of the in-service training schedule. Firearms instruction and practice firing, under the direction of Sergeant John Laws and Pfc. Josh Howell of the Patrol, rounded out refresher training. Each in-service school was addressed by Colonel Smith, Director Albert Coates, Major D. T. Lambert and Joe Garrett, Assistant Commissioner of Motor Vehicles, acting for Commissioner Edward Scheidt, who was unable to appear because of a post-operative confinement.

Non-commissioned officers of the North Carolina State Highway Patrol hear a discussion of the 1959 changes in the motor vehicle laws of North Carolina.

BASIC TRAINING

The 1959 twelve-week basic training school in traffic law enforcement opened on July 20. Patrol recruits and two United States Marine Corps sergeants, who attended the school pursuant to special arrangements with the Patrol Commander and the Institute of Government, were welcomed by Albert Coates, Colonel Smith and other patrol administrative officers, and started their training immediately with a complete orientation concerning school rules and regulations, schedules and various duty assignments. Academic orientation, covering methods of note-taking and reading, techniques of study, and suggested examination procedures followed and the busy first day was concluded with the showing of "Car 635," a training film.

The 682 hours of basic instruction, including 456 classroom hours, 141 field training hours and 85 hours of supervised study, exceeded by 41 hours the time involved in previous schools and necessitated a full daily schedule for trainees.

The average day started with reveille at 5:45 a.m., continued with concentrated calisthenics and "policing" chores until the breakfast formation at 6:55 a.m. Classes began at 8:00 a.m., and continued, punctuated by short hourly breaks, until the lunch formation at 12:20 p.m. Classes started again at 1:30 p.m. and were interrupted at 5:30 p.m. for the supper formation. Supervised study took place from 7:00 p.m. to 9:00 p.m. and, after a

period allowed for additional individual study time, "lights out" came at 10:15 p.m.

Recruits spent the entire first week of the school "learning to drive" through the medium of a college level driver education course, administered by Dr. Wallace Hyde, Director of the Department of Motor Vehicle's Driver Education Division, with the assistance of members of his Division and selected veteran highway patrolmen in the "behind the wheel" field training feature of the course.

Broad basic courses designed to provide an adequate context for law enforcement duties and specialized instruction followed. These included introduction to law, geography and history, court structure and jurisdiction, constitutional law, police organization and management, and North Carolina State Highway Patrol policies and jurisdiction. These courses charted the way of the recruit into specialized traffic law enforcement training involving detailed courses in the law of arrest, the elements of crimes, driver license law, rules of the road, the size, weight, construction and equipment of vehicles, accident investigation, riot control, road blocks, traffic control, firearms, judo, registration law and administration, special investigative techniques, report writing, the use of scientific speed detection devices, courtroom procedure, detection of stolen vehicles, truck weighing, vehicle arson detection and investigation, the law of evidence, liquor law, the law of search and seizure, techniques of interrogation, principles of police supervision, apprehension of dangerous criminals, and police ethics.

Several courses in traffic safety promotional activities occupied the recruits, reflecting the primary jurisdictional interest of the Highway Patrol in traffic law enforcement and highway safety.

Robert Montgomery, Jr., speaks at the graduation exercises for the 1959 Basic Patrol School. Other speakers shown are (l. to r.) Sgt. C. E. Whitfield of the Patrol; Joseph P. Hennessee, Assistant Director of the Institute; the Reverend M. J. Davis of Fayetteville; Attorney General Malcolm B. Seawell; Director Albert Coates of the Institute of Government; Col. James R. Smith, Patrol Commander; and Roy G. Hall, Assistant Director of the Institute of Government.

Interspersed in the basic training curriculum were a number of courses that, while not directly involving strict law enforcement techniques, were nevertheless necessary adjuncts to well-rounded law enforcement training—first aid, spelling, speech training and techniques, military courtesy and personal conduct, typing, observation, communications and transportation, personnel problems, and flash recognition.

The eleventh week of the school, consisting of 60 hours, was devoted exclusively to the subject of "police pursuit driving." Broader in scope than its title implies, the subject might have been designated as "professional law enforcement driving techniques." It included instruction concerning the use of warning devices, the execution of turns, the transportation of prisoners, and the apprehension of offenders in normal situations, as well as the pursuit of violators at somewhat more than average speeds in the sense of "pursuit" as that term is usually understood. In addition to the primary classroom and field instruction in police driving, the course included supplementary instruction, conducted by specialists in various fields, focused on police driving at several angles: the effect of police driving on personnel and equipment; its specific relationship to highway safety; the use of road blocks and radios as an adjunct to a successful technique; and specific patrol policies, legal implications and public relations questions bearing on police driving. Approached in this manner, the course followed in logical sequence the basic driver education course completed during the first week of the school and constituted in effect an advanced, specialized driver education course.

The final week of the basic training school involved a number of "practical orientation" courses designed to acquaint the trainees with other enforcement organizations and with the general operation of the Department of Motor Vehicles. Operations of the Federal Bureau of Investigation and the State Bureau of Investigation were described by members of those organizations and a tour of the Department of Motor Vehicles in Raleigh constituted a visual explanation of the operations there.

Graduates of the 1959 Basic Training School for Highway Patrolmen are pictured with Robert Montgomery, Jr., Assistant Director of the Institute of Governmen in charge of Patrol training, and Sgt. C. E. Whitfield, Basic Patrol School commandant.

Participants listen to a lecture on motivating subordinates.

E. S. C. MANAGEMENT DEVELOPMENT PROGRAM

A role play interview during the simulation project is observed by other participants in the first class.

Approximately 150 managers and supervisors of the N. C. Employment Security Commission are going back to college. Twenty-four executives, the first of five groups, completed a seven-day management development program conducted by the Institute of Government in Chapel Hill on October 17. Four additional week-long sessions are scheduled during November, December and January.

The objective of the program is to help managers and supervisors achieve the purposes of the agency by helping them to understand themselves, to understand their subordinates and superiors, and to help them to apply improved management and supervisory techniques.

The management development program was planned with the help of local managers and supervisors. Forty local managers and supervisors were interviewed and asked to identify supervisory difficulties and problems. On the basis of the information obtained, officials of the Employment Service Division of the ESC and the Institute of Government determined the course contents and prepared some instructional materials.

The 40-hour curriculum includes lectures and group discussion in the following subjects: problem solving, creativity and decision making; the nature of people—adjustment, personality, anxiety and mental hygiene; organization and management; work and organizations; delegation of authority; motivating employees; leadership; the functions of the manager; communications; the executive interview; and ideas from the field of selling. The training program also includes a simulation project which is a two-hour role play of a number of the supervisory problems which might develop in a local office.

The management development program is coordinated by Donald Hayman, Assistant Director of the Institute of Government. Other instructors for the first program included the following: R. P. Calhoon, Professor of Business Administration, UNC; Dr. William Noland, Professor of Industrial Sociology, UNC; C. A. Kirkpatrick, Professor of Marketing, UNC; Dr. Norman Garmezy, Professor of Psychology, Duke University; J. Fred Ogburn, Personnel Director, McCormick and Company, Baltimore; Ned Hamilton, Vice-President, American Commercial Bank, Charlotte; and Jack Hurt, Deputy Director of the Bureau of Employment Security, U. S. Department of Labor, Washington, D. C.

THE ATTORNEY GENERAL RULES

SCHOOL FINANCES

Applicability of Minimum Wage Law to School Employees. Does the recently enacted Minimum Wage Law apply to lunch room employees in public schools?

To: Dr. Charles F. Carroll

(A.G.) Contrary to an earlier view, the conclusion has been reached that it was not the legislative intent in enacting the statute in question to include public employees within the definition of the term "employer." Therefore it is the view of this office that the recently enacted Minimum Wage Law is not applicable to lunch room employees, janitors, maids, or any other employees of county and city boards of education.

Allocation of Capital Outlay Reserve Funds. A county board of education has included in its budget a large appropriation for capital outlay, which funds will not be needed for at least a year, or until a countywide plan of consolidation has been adopted. The county has $152,000 in maturing bonds which it will be necessary to refund. May the board of county commissioners reduce the budget of the county board of education by $152,000 so as not to have to refund the maturing bonds?

To: Mrs. Bernice McJunkin

(A.G.) It is the view of this office that the board of commissioners has the legal right to reduce the budget of the county board of education by the amount of $152,000 in order not to be forced to refund some bonds that would be maturing this fiscal year. In view of the fact that the funds requested by the county board of education will probably not be needed for more than a year, it would seem to be only good business for the county commissioners to reduce the requested budget by the amount indicated.

School Current Expense Budget. A county would like to know the answers to the following questions in connection with the school current expense budget:

(1) Can the county board of education authorize any school district to employ an assistant agriculture teacher?

(2) Can the county board of education authorize supplements, from tax funds, for athletic coaches in the county schools, without a vote of the people?

(3) Can the county board of education authorize any school district to employ a shop man who would teach wood and metal work in a Diversified Occupations Program, even though it is a part of the work supposed to be performed by the Diversified Occupations Instructor, without a vote of the people?

(4) Can the board of education authorize any employment of public school music teachers and pay their salaries, or any portion of the same, from tax funds, without a vote of the people?

(5) Is the county board of education authorized to employ any additional academic teachers or instructional help over and above those allotted by the State, without a vote of the people?

To: Daniel L. Bell

(A.G.) (1) It is the view of this office that a county board of education may provide in its budget for a teacher of agriculture in addition to the teachers of that subject provided by State support. If the salary of such teacher is provided in the local budget, he will be elected by the local committee upon the recommendation of the principal and with the approval of the county superintendent and the county board of education, as are all other teachers. See G.S. 115-72.

(2) It is the view of this office that the legislative intent in enacting G.S. 115-116(a) was to provide that when State allotted teachers receive a supplement, the same must be authorized by a vote of the people. It is thought that except when a supplemental tax has been voted, there is no authority to supplement the salaries of athletic coaches.

(3) It is thought that the county board of education may include in its budget salary for a teacher of any vocational subject simply because vocational education is considered a part of the public school system. Whether or not such teacher is needed in a particular school is a question to be determined by the county board of education.

(4) It is thought that public school music is a part of the public school program. Therefore the board of education is authorized to include the salaries of public school music teachers in their budgets. If approved by the board of county commissioners, it is thought that a tax may be levied for the purpose, if necessary.

(5) It is thought that G.S. 115-78 (a) (2) is broad enough to include additional academic teachers in the county current expense budget.

SUPERIOR COURT CLERKS

Money Received for Minor. What is the maximum amount a Clerk of the Superior Court is authorized to receive under an insurance policy for the benefit of a minor?

To: Arthur W. Greene

(A.G.) Chapter 794, Session Laws of 1959, amends G.S. 2-53 by raising from $500 to $1,000 the amount which may be disbursed by a Clerk on his own motion for the best interests of a minor for whom no guardian has been appointed. Chapter 795 contains a similar amendment to G.S. 28-68 to provide for the payment into the office of the Clerk as much as $1,000 for the estate of a person who died intestate and for whose estate no administrator has been appointed. The 1959 General Assembly did not amend G.S. 2-52, which authorizes a Clerk to receive funds for a minor beneficiary of an insurance policy, to make it conform to the provisions of G.S. 2-53 and G.S. 28-68. Therefore, the Clerk is not safe in accepting under G.S. 2-52 more than the $500 limit for the benefit of such persons.

Fees for Auditing Executors' Accounts. When an executor files his annual account within one year as provided by G.S. 2-33 and this account is also his final account under G.S. 2-34, to what fees is the clerk entitled?

To: C. C. Kennedy

(A.G.) Where only one account is filed and this account makes final settlement of the estate, it should be considered a final accounting even though it is filed within the period provided for the filing of the first or annual account. The proper fee to be charged for auditing an account of an executor who files one account, being his first and final account, is that set out in G.S. 2-34 for final accounts.

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