The Fiscal Implications of Home Rule for Local Governments in South Carolina

Douglas Watson
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by

DOUGLAS J. WATSON

Local governments across the country today are under severe financial stress. Everywhere we see and hear new stories and broadcasts proclaiming the financial plight of the nation's cities and counties. Since World War II the demand for increased local governmental services has outstripped the people's desire or ability to pay for them. This imbalance between people's aspirations for local governmental services and their willingness and ability to pay for them is at the heart of the fiscal problems of the nation's cities and counties. In this context, it is especially important to examine the fiscal implications of the Home Rule Law recently enacted by the General Assembly for the local governments in South Carolina.

There are a number of procedural changes in the law which are included in the checklist in the Appendix. Most of these new requirements will improve planning, accountability and budgeting of funds. Well-managed local governments will already have many of these procedures in practice.

Historically, a county has been considered to be more an arm of the State government than an independent local government. Therefore, the State has been comparatively generous in sharing State-collected revenue with the counties. The county governments have been very limited in the approaches they have had in raising funds so help from the State has been necessary. Over the years the cities have had the ability to raise their own revenue through several sources. For this reason, cities are not nearly as dependent on State-shared revenue as are the counties. For example, forty percent of Florence County's operating budget revenue comes from the State while only five percent of the City of Florence's revenue is State-shared.

In the home rule legislation, the General Assembly has provided county governments with four new sources of revenue. County Councils may now provide penalties for violations of ordinances they enact.

*City Manager, Florence, South Carolina

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In reality, this is unlikely to result in any significant revenue. Counties are also empowered to assess uniform service charges for a wide range of services, as spelled out in Section 14-3703(5).

Section 14-3703(12) allows county governments to levy uniform license taxes upon persons or businesses in the unincorporated areas of the County. The license tax must be based on the gross income of the person or business unless they paid a license tax to another county or municipality. In that case, the tax must be reduced by the amount of gross income taxed in the other county or municipality. Lastly, county governments can grant franchises for the use of public streets and make charges for them, as municipalities are presently allowed to do. (Section 14-3703(11).

The increased ability of county governments to finance their own operations may result in a lessening or at least a leveling of State-shared revenue. The General Assembly also may require local governments to become less dependent on the State for funds in view of the tight financial situation of the State government. In a recent Associated Press article, Chairman Robert Wasson of the State Tax Commission predicted a sixty million dollar deficit for the State of South Carolina this fiscal year, which undoubtedly will have an effect in courthouses and city halls all around the State.

The General Assembly has broadened to some degree the ability of counties to raise revenue locally. However, it has intensified for the future the competition for local tax resources through the home rule law. The county governments, municipalities, school districts and special districts draw on the same taxpayer and all rely on the property tax in varying degrees for a portion of their funds.¹

As county and city governments' costs and service levels increase, additional revenue sources will be necessary. This year the State of Georgia became the twenty-third state to institute a local option sales tax, which allows the residents of a city or county to decide whether an additional percent will be added to the state sales tax for local use. North Carolina also has allowed the local option sales tax and ninety-five percent of its counties are imposing it.² The local option sales tax is being used in other states in an effort to reduce the reliance of local government on the property tax, which is generally recognized as a

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regressive, inequitable and inelastic tax. Other states have allowed local governments to tax hotel and motel users and some have instituted local income taxes.

A problem not addressed at all by the home rule law is the poor correlation between the fiscal resources and public needs of governmental bodies. The experience of older urban areas indicates that more lower income families will move into the cities and upper income families will migrate to suburban or urban fringe areas as South Carolina continues to urbanize. Because of the lack of available open space in the municipalities and the overabundance of it outside the city limits, new industry will continue to locate in areas outside the cities. The result will be that the cities will be left with people who are expensive to serve but who pay few taxes and the counties will have wealthier residents as well as the lucrative tax base provided by the industries. Wide variances in the property tax base within an urban area lead to inequities among taxpayers, for the city resident will have to pay more for the same services than will his counterpart living in the unincorporated area near the industry. The State of Minnesota has relieved this inequity by allowing all general local governments in an area to share evenly in the property tax revenue from new industry.

The action of other states to address carefully the revenue needs of local government is encouraging. The State of South Carolina, through home rule, has improved the revenue outlook for cities and counties but considerably more study and imagination will be necessary on the part of local government officials and state legislators in developing new revenue sources for the future.

A major development in the law is the increase in the categories on which tax money may be spent by county governments. Previously, Article X, Section 6 of the South Carolina Constitution limited counties to spending their tax dollars for:

- educational purposes, to build and repair roads, buildings and bridges, to maintain and support prisoners, pay jurors, County officers, and for litigation, quarantine, and court expenses and for ordinary County expenses, to support paupers and pay past indebtedness.

Section 14-3703(5) of the home rule law now allows property taxes and uniform service charges to be expended for, but not limited to:

- general public works, including roads, drainage, and other public works; water treatment and distribution; sewage collection and
treatment; courts and criminal justice administration; correctional institutions; public health; social services; transportation; planning; economic development; recreation; public safety, including police and fire protection, disaster preparedness, regulatory code enforcement; hospital and medical care; sanitation including solid waste collection and disposal; elections; and libraries.

This wide extension of authority is probably the most important change in the Act, for it places counties in a position to provide the full range of what are normally considered urban services. This section recognizes the urbanization of South Carolina by giving the counties the ability to expand their role considerably in future years as demand for urban services from citizens in the unincorporated areas escalate.

Previous to home rule, counties were required to tax all residents uniformly, as clearly stated in Article X, Section 5 of the South Carolina Constitution:

The corporate authorities of counties, townships, school districts, cities, towns and villages may be vested with power to assess and collect taxes for corporate purposes; such taxes to be uniform in respect to persons and property within the jurisdiction of the body imposing the same. (emphasis added)

This article was enacted when the mission of each governmental entity was clear-cut. The urbanization of the State has confused the historic differences in function between cities and counties and only now, through home rule, are the functions of local governments being redefined to keep pace with these changes.

There is, however, one important limitation on the ability of counties to provide these urban services. Counties are restricted from financing any service not provided on March 7, 1973 by a county-wide tax if a municipality is providing that service. However, the cities affected may concur in the delivery of that service by the county within their corporate limits. The resulting effect will be that the citizens who receive services from the counties will pay for them. The General Assembly allows the counties to establish special tax districts for these services in particular areas but requires they be formed only after one of three rather cumbersome methods of petitions and referenda. However, if counties want to set up a special tax district in the entire unincorporated area of the county, they can do so without a referendum.
While counties are forbidden to tax municipal residents for services already provided by cities after March 7, 1973, there still exists a great deal of double taxation for services which were provided prior to 1973. Double taxation makes it difficult for cities to annex because of the tax advantage afforded urban fringe residents. These citizens use recreational facilities and programs, streets, water and sewer systems and other services provided by cities but do not share fairly in their cost.

Under the home rule legislation, counties have the ability to eliminate double taxation by establishing districts in the unincorporated areas of the entire county. For example, many counties provide trash and garbage collection through the placement of containers throughout the unincorporated areas of the county. This "green box" service does not benefit city residents even though they help pay for it through their County taxes. Similarly, many counties have organized public works departments, which perform little or no work inside municipalities. All counties provide law enforcement protection to the unincorporated areas through the Sheriffs' Offices or county police departments. Under Section 14-3703(5) counties have the authority to establish special tax districts for these services in the unincorporated areas without referenda. This will relieve the burden from city residents of subsidizing the services provided by the county in the unincorporated areas.

Counties and cities may jointly hire impartial certified public accountants to document the specific areas of double taxation existing in the budgets of counties. The accountants would also develop appropriate millage rates for city residents and for persons living within the special tax districts.

Home rule, by giving counties the ability to perform the full range of urban services, has presented a tremendous challenge to local governmental leaders in South Carolina. With few exceptions throughout the country in urbanized areas, governmental services have been provided in a less than efficient manner because adjoining political subdivisions jealously refused to work together. With the advent of home rule in South Carolina, there still exists the opportunity for local government to avoid the mistakes made in prior years by already urbanized areas in other states. The evils of duplication and double taxation will be avoided in a few areas of the State through consolidation of cities and counties, if the General Assembly passes a bill allowing for consolidation. However, consolidation, as a political reality, is unlikely to be achieved in many areas, if the history of that movement is any indication.
A more realistic answer in the short run to a non-competitive, effective and efficient provision of services in South Carolina lies in the use of cooperative agreements. Both the County and Municipal portions of the Act allow for the contracting of services between governmental bodies. This method of providing services recognizes the inefficiencies involved in developing parallel governmental organizations to provide the same service in adjoining political subdivisions. Contracting allows one government to provide a particular service for another at some agreed-upon cost. With the continued growth of community needs and problems, cooperation among local governments has become more of a necessity in efforts to meet the challenge of providing adequate services.

Interlocal agreements, made possible by the Home Rule Act, can be used for a broad range of services. Many of the functions furnished under cooperative agreements can be direct services to the public, such as fire protection. Others, such as personnel recruiting and screening, purchasing, and tax collection and assessment, are staff services provided by one government to another to enable it to operate more efficiently or economically. Contracts between two or more governments can be negotiated on each function or service separately. For example, a city and a county might contract for the county to collect the city's taxes on a fee basis or a city might provide fire protection services in the unincorporated urban fringe for the county or in another municipality.

Another characteristic of an interlocal agreement is that it will last only as long as the parties to it want it to last. Also, these agreements can be for standby arrangements, such as mutual aid for fire protection or emergency water supply.

In conclusion, then, home rule provides a great challenge for local governments in their fiscal affairs. The next decade will be crucial, for either local governments will go their separate ways in the provision of urban services or they will plan for and cooperate to keep service levels high and costs low.

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8Bollens and Schmandt, p. 375.
### Checklist of Fiscal Requirements Under Home Rule

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<th>Do You Know</th>
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<td>1. Counties must “provide for an accounting and reporting system whereby funds are received, safely kept, allocated and disbursed” (Section 14-3763(8)).</td>
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<td>2. Counties must also “establish and implement policies and procedures for the issuance of revenue and general obligation bonds subject to the bonded debt limitation” (Section 14-3203(9)).</td>
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<td>3. Counties have the authority now to affix penalties up to the limit of the magistrates’ courts for violations of county ordinances, including all regulatory codes (Section 3703(14)). Cities have the authority to fine up to two hundred dollars rather than one hundred dollars (Section 47-32).</td>
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<td>4. The fiscal year and budget year for all county governments is established as July 1 to June 30 (Section 14-3711). Municipalities may choose their own fiscal year but must designate it no later than thirty days after the beginning of the fiscal year (Section 47-53).</td>
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<td>5. All county offices, departments, boards, commissions or institutions receiving county funds must now give to county councils a complete financial report at the end of the fiscal year (Section 14-3711).</td>
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<td>6. County governments are required to adopt operating and capital budgets annually (Section 14-3711). All Mayor-Council and Council-Manager cities are required to have budgets. The General Assembly overlooked this requirement in the Council form but undoubtedly will correct this oversight.</td>
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<td>7. An independent annual audit is required for counties (Section 14-3712) and for cities (Section 47-53). It is also interesting to note that these same sections require all agencies receiving funds from local governments submit an audit of their expenditures.</td>
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<td>8. There must be a system of centralized purchasing in counties which will eliminate the practice of spending by department heads as practiced in some local governments (Section 14-3713).</td>
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<td>9. Legal liability for cities has been increased from eight thousand dollars to fifteen thousand dollars for bodily injury or death and from two thousand dollars to five thousand dollars for property damage (Section 47-36).</td>
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