Fiscal Aspects of Revised Article VIII of S. C. Constitution

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Fiscal Aspects of
Revised Article VIII of S. C. Constitution
by
ROLAND WINDHAM

My topic is the fiscal aspects of Revised Article VIII of the Constitution. This fiscal aspect probably will affect us more than anything except the political aspect. Once we get settled down and get the type of government we are going to be operating under, then the real meat of the matter comes and that is providing the services that are called for under whatever particular form of government we choose.

Local citizens are quite different from what they were five years ago, simply because they are demanding more and better services now. They will pick up the telephone and expect you to come out and solve a storm drainage problem without caring where the money comes from. So those of us concerned with the day-to-day fiscal aspects are going to be concerned with where to get the money, and whether we are susceptible to tort claims. As our basis for services widens it will take more money to provide these services.

The new Local Government Act which was signed into law June 25, 1975, is already beginning to have quite an impact on local government operation, which in many ways is quite different from some local government’s present mode of operation. Under each of the alternate forms of county government, except the board of commissioners form provided for in Article 6 – each county government within the authority granted by the Constitution and subject to the general law of the State shall have the following enumerated powers which shall be exercised by the respective governing body in regards to fiscal matters:

(1) To acquire real property by purchase or gift; to lease, sell, or otherwise dispose of real property and personal property; and to acquire tangible personal property and supplies; (the county governments, except Charleston County really did not have many laws to operate under up until now: if they tried to provide services they were subject to a suit by taxpayers;)

(2) To make and execute contracts;

*City Manager, Aiken, South Carolina
(3) To assess property and levy ad valorem property taxes and uniform service charges, including the power to tax different areas at different rates related to the nature and level of governmental services provided and make appropriations for functions and operations of the county, including, but not limited to, appropriations for 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 solid waste collection and disposal; elections; libraries and to provide for the regulation and enforcement of the above; provided however that prior to the creation of any special tax district for the purposes enumerated herein, one of the following procedures shall be required;

(a) An election in which the majority freeholders in the proposed tax district petition for an election and the majority of electors voting must vote favorably;

(b) If 15% of freeholders petition the county governing body, a referendum and election shall be held; Two boxes, one each for freeholders and electors, must show a majority voting in favor in each box.

(c) If 75% of freeholders in district petition for creation of special tax district, such district can be created by Council ordinance.

If the above procedures are followed and results are favorable, then County Council by ordinance can create the special tax districts. However, the County cannot finance any service not being rendered by the County on March 7, 1973, by a countywide tax where such service is presently being provided by any municipality within the municipality or where the municipality has budgeted funds, except upon the agreement of the municipality.

If general obligation bonds are to be issued for a service in any particular area of the County and a tax levy is necessary to retire these bonds, the qualified electors in that area must approve by referendum.

Article VIII does not change any debt limitation or the amount of bonds that we can issue. We are still under the old rule which limits bond debts to eight percent of the total assessment unless a state-wide vote approves a constitutional amendment for a particular local government to exceed that amount.
I believe this would include all services previously listed except that of police protection if it would result in reorganization or restructuring of the sheriff’s department or if it would limit or duplicate the duties of the sheriff’s department. This must be approved by a county-wide referendum.

(4) To provide for an accounting and reporting system whereby funds are received, safely kept, allocated and disbursed;

(5) To establish and implement policies and procedures for the issuances of revenue and general obligation bonds subject to the bonded debt limitations; (A word of warning is in order here. The last legislature passed laws reducing assessment ratios on personal dwellings to four percent. The merchant’s floor tax has been reduced from ten percent to six percent over a several year period and some changes have been made on personal property tax — this would affect total assessment and bond limitations are geared to total assessment value.)

(6) To grant franchises outside the corporate limits of municipalities except telephone, telegraph, gas, electric, utilities, nor shall it apply to utilities owned and operated by a municipality.

(7) To levy uniform license taxes upon persons and businesses engaged in or intending to engage in any business, occupation, or profession, in whole or in part, within the county but outside corporate limits of a municipality with certain exceptions such as ministers, teachers, and any utilities regulated by the Public Service Authority; (counties have not previously been allowed to require business licenses for people operating outside corporate limits.); License taxes shall be graduated according to gross income; if licensee pays license to other county or municipality, the amount of gross business can be deducted from the total in computing the income taxes.

(8) If the General Assembly provides by general law for the use of county personnel, facilities, or equipment to implement general law as rules and regulations promulgated pursuant thereto, the State Agency or department responsible for administering such general law shall provide sufficient funds for county implementation from appropriations to that agency.

A county now has the right to pass emergency ordinances if life, health, safety or property of people are affected. Cities have had this
right, but it is new for counties. A limitation on emergency ordinances is that taxes may not be levied. A public hearings procedure is required to levy taxes, to grant franchises or to change a service rate.

To put into effect these laws concerning the fiscal aspect of county government, the county council should:

(1) Set fiscal year's operation (July 1 – June 30);

(2) (A) Adopt annual operational and capital budgets prior to the beginning of the fiscal year;
       (B) Budgets shall identify the sources of the anticipated revenue including taxes necessary to meet the financial requirements of the budgets adopted;
       (C) Make supplemental appropriations which shall specify the source of funds for such appropriations;

(3) Provide for levy and collection of taxes necessary to meet all budget requirements except as provided for by other revenue sources;

(4) Establish procedures to sell, lease, or contract to sell or lease real property owned by the county;

(5) (A) Provide for an independent annual or more frequent audit of all financial records and transactions funded in whole or in part by county funds;
       (B) Such auditor must be CPA firm who has no personal interest, direct or indirect in the fiscal affairs of the county government;
       (C) No competitive bids are required to designate audit firm, but appointed only for one year;
       (D) Designation no later than 30 days after beginning of each fiscal year (July 31);
       (E) Audit open for public inspection;

(6) Provide for a centralized purchasing system for procurement of goods and services required by the county government. Under a centralized purchasing system, one officer is authorized to obtain all materials, supplies, equipment and services for all agencies of county government. This can effect substantial savings as a result of bulk buying. Furthermore, personnel hired for centralized purchasing have the opportunity to develop a degree of expertise in purchasing for local government's
needs, such as knowing the market, and this is a good way to save budget dollars. This is an excellent opportunity for local governments to cooperate — including counties, municipalities, and school boards.

Fiscal Aspects of Article VIII

As Related To Municipalities

(1) The municipal governing body may fix fines and penalties for the violation of municipal ordinances and regulations not exceeding two hundred dollars or imprisonment not exceeding 30 days. Up until now the maximum fine that a municipal recorder’s court could levy was one hundred dollars. The new maximum must be established by ordinance.

(2) Council shall provide for an independent annual audit of all financial records and transactions of the municipality.
   (A) Must be CPA firm with no city interest.
   (B) Not require competitive bids for audit work.
   (C) Appointed not exceeding four years.
   (D) Appointment no later than 30 days after fiscal year begins.

(3) Council must adopt budgets and levy taxes. This is an excellent way to get citizen input.

(4) Authorize the borrowing of money.

Municipal Budgets

It is expressly provided in the new law that municipalities adopting the council-manager or mayor-council format have an annual formalized budget. While there is no particular mention of budgets in the description of the council form of municipal government, it appears that the intent of the law is to require these municipalities to also have budgets because it is mentioned in that section of the law describing general powers and responsibilities of all municipalities which states that budgets may be adopted but only after council has passed an ordinance.

This means that we all ought to be following standard budgetary processes which would aid all of us in better analyzing the benefits received from our planned expenditures and in also meeting the demands and needs of our citizens. It also gives the citizens more input into how their tax dollars are being spent.
### Comparison of Requirements Under New Law

<table>
<thead>
<tr>
<th>Activity</th>
<th>County</th>
<th>Municipality</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fiscal year</td>
<td>July 1 – June 30</td>
<td>Sets its own.</td>
</tr>
<tr>
<td>Budgets</td>
<td>Specifically mentioned in all forms except #1.</td>
<td>Specifically mentioned in council-manager ad.</td>
</tr>
<tr>
<td></td>
<td>Since #1 prescribes to Article I it is presumed that a budget is required.</td>
<td>Mayor-council presumed to be required in council form.</td>
</tr>
<tr>
<td>Centralized Purchasing</td>
<td>Mandatory under Art. I for all forms except Board of Commissioners.</td>
<td>Not specifically spelled out but for good fiscal practice should be done.</td>
</tr>
<tr>
<td>Audits</td>
<td>Mandatory Appointment no later than 30 days after fiscal year begins.</td>
<td>Mandatory Appointment no later than 30 days after fiscal year begins. Cannot exceed four years.</td>
</tr>
</tbody>
</table>

As has been pointed out counties are now in the business of providing all kinds of services from which they were restricted before. They have the right to tax special districts for these services which have been petitioned.

The time is here when all local governments need to work together to get the most for the dollar spent.

Most of the new governments will have administrators or managers in some level of administrative capacity. All need to work together. An example of this is purchasing which we have already discussed. There is and will continue to be a certain degree of competition for service areas, and services rendered. "Cool" heads should prevail and local government bodies need to sit down and work these problems out. There is enough to do for every agency to really do its own thing, but a good job of it with the best methods adopted and to get the maximum use for the budget dollar.

If we do not do this, then it is my feeling that our state legislature will enact legislation to have a local government committee as a watch-dog over local government operations, and then we will be told everything to do from the selling of bonds, a standardized budget system, when audits and other reports are due similar to the North Carolina local government act.

We have an opportunity, both city and county. We need professional people for a professional job. Elected and appointed officials have a real challenge. The question is: WILL WE ACCEPT IT?