

CITIZENS LEAGUE REPORT

No. 125

**Proposed Legislation on Local Consent
requirement**

March 1961

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Citizens League
545 Mobil Oil Building
Minneapolis 2, Minnesota

Approved by
Board of Directors,
March 8, 1961

March 1, 1961

TO: Board of Directors
FROM: Forms and Structure Committee, Mrs. Stanley G. Peterson, chairman
SUBJECT: Proposed legislation on local consent required on special acts of the Legislature.

The so-called "home-rule amendment" to the State constitution adopted by the voters in November 1958 states in part:

"Sec. 2. Every law which upon its effective date applies to a single local government unit or to a group of such units in a single county or a number of contiguous counties is a special law and shall name the unit or, in the latter case, the counties, to which it applies. The legislature may enact special laws relating to local government units, but a special law, unless otherwise provided by general law, shall become effective only after its approval by the affected unit expressed through the voters or the governing body and by such majority as the legislature may direct. . ."
(underscoring added)

In the 1959 session, the Legislature did not pass any general law to except the requirement of local consent for any types of special act, so that at the present time every special act of the Legislature must obtain local approval as set forth in the constitutional provision quoted above.

The past year or so, however, the League of Minnesota Municipalities (LMM) home rule committee headed by Sen. Donald Fraser has been concerned with two kinds of special acts for which the usual local consent might be waived:

(1) Acts creating, or amending a special act creating, a single or multi-purpose district constituting a separate governmental unit affecting two or more counties, cities, villages, towns, or school districts.

Examples are amendments to the metropolitan planning commission act, on such matters as the commission's composition, jurisdiction, or tax power; or amendments to the Minneapolis-St. Paul Sanitary District law, enlarging its jurisdiction and changing its composition.

(2) Acts which enable, but do not require, three or more local units to exercise authority granted by the law. Examples are an act amending a law authorizing contracts between Ramsey County and its villages for police service, and a law enabling a Hennepin County garbage authority to add cities and villages in an adjoining county.

The LMM has adopted a resolution recommending legislation to waive the consent requirement in the second type of case. On the first type of case, however, the LMM home rule committee was unable to reach agreement, saying merely that "development of a definitive legislative policy on local consent should await further experience under the new provision."

Development of some form of consent waiver is probably most important in this type of case, involving as it does acts that may become increasingly necessary in dealing with metropolitan problems on the local level. A very important specific example is an act to amend the present sanitary district law to permit it to expand its jurisdiction and change the composition of the governing body. Without some type of exception it appears that the present constitutional provision will require such an amendment to have the approval of all the cities and villages within the area of the proposed expanded territory.

The LMM home rule committee earlier did consider a provision which would have modified the consent provision in this type of case. The provision, which was not approved by the LMM committee, was as follows:

"Section 1. Local approval of a special law as defined in the Minnesota Constitution, Article XI, Section 2, is not required of each affected local government unit in the case of any of the following classes of special laws if the special law so provides:

"Class 1. A special law (a) creating, or amending a special law creating, a single or multiple-purpose district constituting a separate governmental unit or corporation affecting two or more counties, cities, villages, towns, or school districts and (b) requiring approval, by the governing body or the voters as the special law directs, of each affected first class city, each affected county, and the majority of the other affected local government units before the special law takes effect. Whenever there is reasonable doubt as to the local government units affected by such special law, it is the policy of the legislature to designate the affected units by name."

The Citizens League Board of Directors asked the Forms and Structure Committee for a recommendation as to whether this kind of provision should be backed by the League in the current session, and if not this, what kind.

Committee recommendations

The Forms and Structure Committee recommends:

1. That the Citizens League support a general principle that special acts creating, or amending a special law creating, a single or multi-purpose district constituting a separate governmental unit affecting two or more local units, should not require approval of all of the local government units affected.

The committee believes that requirement of unanimous approval gives an absolute veto to each local unit affected, no matter how small the affect may be, and that such a check is not consistent with the need for adapting local governmental structures to handle the increasing number of problems that are taking on area-wide characteristics.

The committee believes further that requiring less than unanimous approval is not inconsistent with protecting home rule in the metropolitan area.

2. That the Citizens League endorse the League of Minnesota Municipalities' resolution recommending legislation to waive local consent on special acts which enable, but do not require, three or more local units to exercise authority granted by law.

Such waiver is consistent with home rule since the exercise of the option will in effect constitute local approval.