

# CITIZENS LEAGUE REPORT

No. 160

**Legislation to change the 1958  
constitutional amendment requiring 'local  
consent' for special acts passed by the  
legislature.**

**May 1963**

Citizens League  
545 Mobil Oil Building  
Minneapolis 2, Minnesota

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APPROVED  
BOARD OF DIRECTORS

DATE ~~MAY 8 1963~~

TO: Board of Directors

FROM: Government Organization Committee, Mrs. Stanley G. Peterson, Chairman

SUBJECT: Review of Proposed Legislation on Local Consent Required on Special Acts Passed by the Legislature

#### RECOMMENDATIONS

1. Senate File 1442 should not be enacted into law. This bill, which would eliminate the requirement that special legislation must be approved by the affected local governmental unit, is far too drastic a cure for the problems encountered by the Legislature in working with the "local consent provision" of the 1958 "Home Rule Amendment" to the State Constitution. In our opinion, passage of this act would directly contravene the intent of the 1958 constitutional amendment, and we urge the Legislature not to pass SF1442.

2. The Legislature should establish machinery for legislative interim study of the problems of the "local consent provision." Whether this is done through an interim commission or by continuation of standing committees, such a study could identify the many problems posed by the "local consent provision" and, hopefully, it could produce solutions which are less drastic than that provided in SF1442.

#### SCOPE OF REPORT

The primary purpose of this report is to present our findings and recommendations with respect to SF1442. Because of the lack of time, we were unable to include in our study a full exploration of all the problems posed by the "local consent provision" of the 1958 "Home Rule Amendment" to the Minnesota Constitution, or to suggest alternative solutions to these problems. Instead, we have limited our study to an analysis of the provisions of SF1442 and its potential effect upon local government.

In the course of our study, we relied heavily upon two previous Citizens League reports on this subject and on material prepared by the League of Minnesota Municipalities. The report was prepared by a subcommittee composed of Earl Colborn, Jr., chairman, Roger Hale, and Wallace Neal. The report was reviewed, amended and approved by the Government Organization Committee before being submitted to the League's Board of Directors.

#### BACKGROUND

The so-called "Home Rule Amendment" to the state constitution adopted by the voters in November, 1958, permits the State Legislature to "enact special laws relating to local government units" but provides that "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." The amendment defines "special law" as "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." The amendment also provides that the special law shall name the government unit or the counties to which it applies.

Prior to the passage of the amendment in 1958, the Legislature, despite a constitutional prohibition against special legislation, had passed many special bills pertaining to a single municipality or county or groups of such units under the guise of general legislation. This was accomplished by employing definitions which at the time of passage of the act limited the applicability of the act to a single government unit. For example, the 1957 Legislature passed "an act fixing the salaries of aldermen in any city now or hereafter having not less than 450,000 inhabitants." Obviously, such an act could pertain only to the City of Minneapolis."

While most local officials generally concurred that there was a need for some special legislation, there was also a widespread feeling that the State Legislature was asserting too much control over the affairs of local government units, and devoting too much of its time to special legislation. Also, the use of restrictive definitions to enact special legislation under the guise of general legislation proved to be cumbersome, vague and undependable, because:

1. It was extremely difficult to define some communities without including other communities within the same definition.
2. At times, a general law which had been intended to apply only to a single municipality would inadvertently be applicable to another municipality because of the definition used.
3. As conditions changed, a special law which had been enacted for a particular community might no longer apply to that community at a future date, and perhaps it would apply to some other community which the law had not been intended to embrace. An example of this is the situation with respect to laws affecting the City of South St. Paul. After the 1960 census, it was necessary for the 1961 Legislature to pass twelve special bills applying to the City of South St. Paul. Most of them were occasioned by the fact that the 1960 census had moved the City of South St. Paul into a higher population category and, because of this, most of the special legislation which had been passed for South St. Paul in previous sessions no longer applied to that city.

As a result of all this, a constitutional amendment was offered to the voters in 1958, and adopted in November of that year. The amendment was publicized as the "Home Rule Amendment" and it was largely on this basis that it obtained the backing of many organizations and the approval of the voters. While the amendment removed the restriction against the passage of special legislation by the Legislature, it provided a safeguard against the enactment of unwanted special legislation through the so-called "local consent provision."

Since the passage of the Home Rule Amendment in 1958, the Legislature has enacted considerable special legislation (in the 1961 session, 260 of the 857 laws enacted by the Legislature, or 30%, were special bills, according to the League of Minnesota Municipalities). However, the local consent provision has caused the Legislature a number of problems. These problems, which are too numerous and too complex to discuss in this brief report, include questions such as:

1. Which local units of government are affected by a particular bill?
2. What is the governing body of each of these units? (For example, does a bill dealing with the Minneapolis levy for park purposes require approval only by the Minneapolis City Council, only by the Minneapolis Board of Park Commissioners, or both?)
3. What sort of local consent is required for the approval of special legislation amending previously passed special legislation which had been passed under the guise of general law? (Indeed, there is some question whether or not this can be done at all.)
4. Is local consent required for enabling legislation?
5. As pointed out in a Citizens League report of March, 1961, the most important difficulty with the local consent provision involves the question of how to enact special legislation pertaining to a number of government units without permitting any one of the affected units to veto an act which will benefit all of them.

In 1961, the Citizens League supported 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." In the report, the League stated that, in such instances, "the requirement of unanimous approval gives an absolute veto to each local unit affected, no matter how small the effect may be and that such a check is not consistent with the need for adopting local governmental structures to handle the increasing number of problems that are taking on areawide characteristics."

SF1442

Apparently, because of the Legislature's increasing frustration at the difficulties of working with the local consent provision, a bill which would eliminate the requirement that special legislation be approved by the affected local government unit was introduced late in the 1963 legislative session. This bill, SF1442, introduced by Senators Rosenmeier and Thuet, and a companion measure, HF1733, introduced by Representatives Wozniak, Head, Reuben Nelson, Salisbury Adams and R. W. Johnson, contain the following language:

"Section 1. (645.023) Subdivision 1. A special law enacted pursuant to the provisions of the Constitution, Article XI, Section 2, does not require ~~the approval of~~ the approval of the affected local government unit, or groups of such units in a single county or a number of contiguous counties, unless such special law specifically so provides.

"Subd. 2. A special law enacted without local approval as provided in subdivision 1 takes effect in the same manner as a general act and as so provided in Minnesota Statutes 1961, Section 645.02."

DISCUSSION OF RECOMMENDATIONS

While we fully appreciate the problems which are imposed upon the Legislature in the local consent provision, we believe that the remedy for these problems offered in SF1442 is much too drastic a cure. Passage of this bill in effect would completely eliminate the local consent provision, except in those instances where the Legislature believes local consent should be required, while at the same time leaving with the Legislature full authority to pass special legislation. In our opinion, this would completely violate the intent of the Home Rule Amendment as it was presented to the voters in the campaign of 1958, when organizations and voters felt that the amendment would provide ample protection from the possibility of having the State Legislature dominate local government. The effect of this bill would be to return the situation to that which existed prior to the enactment of the Home Rule Amendment, except that the Legislature would no longer be burdened with the necessity of passing special legislation under the guise of general legislation. To our minds, this directly contravenes the intent of the 1958 constitutional amendment.

While we oppose the bill, we do recognize, as stated previously, that there are problems with the local consent provisions which must be surmounted. Time did not permit us to analyze fully all of these problems or their solutions. However, as pointed out in a previous Citizens League report, a method is needed for the enactment of legislation pertaining to multi-governmental problems and the requirement that such legislation be approved by each of the affected government units is unreasonable. In its report of May 3, 1961, the Citizens League recommended passage of legislation to provide that special legislation affecting nine or more units of local government would require the approval of the governing bodies of the majority of the units affected, and that such approving majority should contain at least a majority of the population of all the units affected. This bill further provided that only those government units which formally adopted a resolution on the matter within six months of the passage of the legislation would be counted in computing the necessary majorities.

In supporting such legislation, the Citizens League stated that "the proposed local consent policy bill carries out the general principles the Board stated earlier: It avoids the impasse of giving an absolute veto to each local unit affected on matters of areawide concern, and yet preserves the principle of home rule by requiring approval of a majority of local governing bodies representing the majority of the people affected."

While the above suggestion would help solve the most important problem created by the local consent provision, it would not answer others. Within the time available, we have not been able to fully evaluate the importance of these other problems and the possible solutions to these problems. However, we believe that they can be met by some means less sweeping than SF1442. Therefore, we urge the 1963 Minnesota Legislature to provide for an intensive legislative study of the entire issue during the legislative interim.