

ARTICLE VIII
LOCAL GOVERNMENT

Editor's Note

The amendment ratified by 1973 Act No 63 (1973 (58) 67) revised and rewrote this article, which previously related only to municipal corporations and police regulations, substituting present Section Section 1 to 18 for former Section Section 1 to 14. The amendment ratified by 1973 Act No 122 (1973 (58) 146) added a new Article VIII-A and transposed Section 11 of the former article thereto to substantially appear as Section 1.

SECTION 1. Powers of political subdivisions continued.

The powers possessed by all counties, cities, towns, and other political subdivisions at the effective date of this Constitution shall continue until changed in a manner provided by law. (1972 (57) 3184; 1973 (58) 67.)

Editor's Note

1992 Act No. 429, Section 1, effective June 2, 1992, provides as follows:

"SECTION 1. (A) As of March 7, 1973, the effective date of Article VIII of the South Carolina Constitution, 1895, many special purpose districts existed throughout the State of South Carolina which had been created to provide water service to the residents living within the boundaries of these districts.

"(B) Section 1 of Article VIII of the South Carolina Constitution provides that the powers possessed by all political subdivisions at the effective date of the article continue until changed in a manner provided by law. Some of those districts which are presently providing water service have determined that, in order to protect the health of the residents residing within the districts, it is necessary that sewer service likewise be provided in their respective areas by a governmental entity. Accordingly, the General Assembly has determined that, as permitted by Article VIII of the South Carolina Constitution, a law empowering these districts to provide sewer services would promote the public health of the State of South Carolina."

1992 Act No. 429, Section 2, added Section 6-11-320, authorizing special purpose districts empowered to provide water services to also provide sewage collection and disposal services under certain prescribed circumstances.

SECTION 2. Boundaries of counties.

Until changed by the General Assembly, as allowed by this Constitution, the boundaries of the several counties shall remain as now established. (1972 (57) 3184; 1973 (58) 67.)

Editor's Note

The present provisions of this section are somewhat similar to Section 12 of Article VII.

SECTION 3. Number of counties.

No more than forty-six counties shall exist at any time, but the General Assembly may provide for a lesser number. (1972 (57) 3184; 1973 (58) 67.)

SECTION 4. Merger of counties.

The General Assembly shall provide by law for the merger of adjoining counties. Such mergers shall be permitted by the General Assembly only upon the request of the governing bodies of the counties or upon petition by ten percent of the registered voters in each of the counties involved. No merger shall take place unless a majority of the electors voting on the question shall vote therefor in each of the counties. (1972 (57) 3184; 1973 (58) 67.)

Editor's Note

This section should be read in conjunction with Section 10 of Article VII, which provides for the consolidation of two or more counties.

SECTION 5. Merger of parts of counties with adjoining counties.

The General Assembly shall provide for the merger of a part or parts of a county with one or more adjoining counties upon request by the governing body of the county in which such part or parts are located, or upon petition by ten percent of the registered voters in the area desiring to transfer to another county. No merger shall take place unless two thirds of the qualified electors voting on the question in the territory to be transferred and a majority of the electors voting on the question in the county to which the territory is proposed to be annexed shall vote therefor. (1972 (57) 3184; 1973 (58) 67.)

Editor's Note

This section should be read in conjunction with Section 10 of Article VII, which provides for the consolidation of two or more counties.

SECTION 6. Removal of county seat.

No county seat shall be removed except by a vote of two thirds of the qualified electors of the county voting in an election held for that purpose; nor shall any county seat be established unless a majority of the electors voting on the question shall vote therefor. (1972 (57) 3184; 1973 (58) 67.)

Editor's Note

The present provisions of this section are similar to Section 8 of Article VII, which further provides that such an election shall not be held in any county oftener than once in five years.

SECTION 7. Organization, powers, and duties of counties; special laws prohibited.

The General Assembly shall provide by general law for the structure, organization, powers, duties, functions, and the responsibilities of counties, including the power to tax different areas at different rates of taxation related to the nature and level of governmental services provided. Alternate forms of government, not to exceed five, shall be established. No laws for a specific county shall be enacted and no county shall be exempted from the general laws or laws applicable to the selected alternative form of government. (1972 (57) 3184; 1973 (58) 67.)

SECTION 8. Incorporation of new municipalities; readjustment of municipal boundaries; merger of municipalities; special laws prohibited.

The General Assembly shall provide by general law the criteria and the procedures for the incorporation of new municipalities and for the readjustment of municipal boundaries and for the merger of incorporated municipalities provided that any city or town shall be organized with the consent of a majority of the electors voting in such election who reside in and are entitled by law to vote within the district proposed to be incorporated. No local or special laws shall be enacted for these purposes; provided, that the General Assembly may vary such provisions among the alternative forms of government. (1972 (57) 3184; 1973 (58) 67.)

Editor's Note

The proviso of this section dealing with the organization of a city or town is somewhat similar to former Section 2 of Article VIII as it existed prior to the 1973 revision.

SECTION 9. Organization, powers, and duties of municipalities.

The structure and organization, powers, duties, functions, and responsibilities of the municipalities shall be established by general law; provided, that not more than five alternative forms of government shall be authorized. (1972 (57) 3184; 1973 (58) 67.)

SECTION 10. Law or exemption for a specific municipality prohibited.

No laws for a specific municipality shall be enacted, and no municipality shall be exempted from the laws applicable to municipalities or applicable to a particular form of government selected by any municipality as authorized by Section 9 of this article. (1972 (57) 3184; 1973 (58) 67.)

SECTION 11. Adoption and amendment of municipal charters.

The General Assembly shall provide by general law two or more optional procedures by which incorporated municipalities may select a charter commission for the framing, publishing, and adopting of a municipal charter and the making of amendments thereto. Any municipality so eligible shall have the power to frame and to amend a municipal charter setting forth its governmental structure and organization, powers, duties, functions, and responsibilities. No municipal charter so framed shall contain any provision inconsistent with this Constitution or the general law provisions enacted pursuant to Section 14 of this article. Such charter or charters or charter amendments shall not become effective until approved by a majority of the qualified electors of the municipality voting thereon. The General Assembly may determine the classes of municipalities to which the provisions of this section apply. (1972 (57) 3184; 1973 (58) 67.)

SECTION 12. Consolidation of counties with municipalities and other political subdivisions.

Notwithstanding any other provisions of this Constitution, any county may consolidate with the municipalities and other political subdivisions within its limits into a single unit of government, which shall be known as a consolidated political subdivision.

The General Assembly shall provide by law for a referendum on such consolidations and for procedures for the framing of a charter for the new political subdivision. Such referendum shall be held only upon the request of the governing body of the county or upon petition of ten percent of the registered electors within the county.

Such consolidation shall not take place unless approved by a majority of the qualified electors voting on the questions of the consolidation and on the charter therefor in the same election or in successive elections held for these purposes. All municipalities and all other political subdivisions within the county not continued by the approved charter shall cease to exist at the effective date of the consolidation.

Any political subdivision created by such a consolidation shall have the power to frame, to publish, to adopt, and to amend a charter setting forth its governmental structure and organization, powers, duties, functions, and responsibilities. No charter so framed shall contain any provision inconsistent with this Constitution or with general law provisions applicable in all municipalities or counties enacted pursuant to Section 14 of this article.

Such charter or charter amendments shall not become effective until approved by a majority of the qualified electors of such political subdivisions voting on the question. (1972 (57) 3184; 1973 (58) 67.)

SECTION 13. Joint administration of functions and exercise of powers.

(A) Any county, incorporated municipality, or other political subdivision may agree with the State or with any other political subdivision for the joint administration of any function and exercise of powers and the sharing of the costs thereof.

(B) Nothing in this Constitution may be construed to prohibit the State or any of its counties, incorporated municipalities, or other political subdivisions from agreeing to share the lawful cost, responsibility, and administration of functions with any one or more governments, whether within or without this State.

(C) The prohibitions against dual officeholding contained in Article VI of this Constitution do not apply to any elected or appointed official or employee who serves on a regional council of government created under the authority of this section.

(D) Counties may jointly develop an industrial or business park with other counties within the geographical boundaries of one or more of the member counties. The area comprising the parks and all property having a situs therein is exempt from all ad valorem taxation. The owners or lessees of any property situated in the park shall pay an amount equivalent to the property taxes or other in-lieu-of payments that would have been due and payable except for the exemption herein provided. The participating counties

shall reduce the agreement to develop and share expenses and revenues of the park to a written instrument which is binding on all participating counties. Included within expenses are the costs to provide public services such as sewage, water, fire, and police protection. Notwithstanding the above provisions of this subsection, before a group of member counties may establish an industrial or business park as authorized herein, the General Assembly must first provide by law for the manner in which the value of the property in the park will be considered for purposes of bonded indebtedness of political subdivisions and school districts and for purposes of computing the index of taxpaying ability pursuant to any provision of law which measures the relative fiscal capacity of a school district to support its schools based on the assessed valuation of taxable property in the district as compared to the assessed valuation of the taxable property in all school districts of this State. (1972 (57) 3184; 1973 (58) 67; 1989 Act No. 6.)

SECTION 14. General law provisions not to be set aside.

In enacting provisions required or authorized by this article, general law provisions applicable to the following matters shall not be set aside:

(1) The freedoms guaranteed every person; (2) election and suffrage qualifications; (3) bonded indebtedness of governmental units; (4) the structure for and the administration of the State's judicial system; (5) criminal laws and the penalties and sanctions for the transgression thereof; and (6) the structure and the administration of any governmental service or function, responsibility for which rests with the State government or which requires statewide uniformity. (1972 (57) 3184; 1973 (58) 67.)

SECTION 15. Consent of local governing body to certain laws required.

No law shall be passed by the General Assembly granting the right to construct and operate in a public street or on public property a street or other railway, telegraph, telephone or electric plant, or to erect water, sewer or gas works for public use, or to lay mains for any purpose, or to use the streets for any other such facility, without first obtaining the consent of the governing body of the municipality in control of the streets or public places proposed to be occupied for any such or like purpose; nor shall any law be passed by the General Assembly granting the right to construct and operate in a public street or on public property a street or other railway, or to erect waterworks for public use, or to lay water or sewer mains for any purpose, or to use the streets for any facility other than telephone, telegraph, gas and electric, without first obtaining the consent of the governing body of the county or the consolidated political subdivision in control of the streets or public places proposed to be occupied for any such or like purpose. (1972 (57) 3184; 1973 (58) 67.)

Editor's Note

The present provisions of the first part of this section dealing with municipalities are similar to former Section 4 of Article VIII as it existed prior to the 1973 revision.

SECTION 16. Acquisition and operation of public utility systems.

Any incorporated municipality may, upon a majority vote of the electors of such political subdivision who shall vote on the question, acquire by initial construction or purchase and may operate gas, water, sewer, electric, transportation or other public utility systems and plants.

Any county or consolidated political subdivision created under this Constitution may, upon a majority vote of the electors voting on the question in such county or consolidated political subdivision, acquire by initial construction or purchase and may operate water, sewer, transportation or other public utility systems and plants other than gas and electric; provided this provision shall not prohibit the continued operation of gas and electric, water, sewer or other such utility systems of a municipality which becomes a part of a consolidated political subdivision. (1972 (57) 3184; 1973 (58) 67.)

Editor's Note

The present provisions of the first paragraph of this section are somewhat similar to former Section 5 of Article VIII as it existed prior to the 1973 revision.

SECTION 17. Construction of Constitution and laws.

The provisions of this Constitution and all laws concerning local government shall be liberally construed in their favor. Powers, duties, and responsibilities granted local government subdivisions by this Constitution and by law shall include those fairly implied and not prohibited by this Constitution. (1972 (57) 3184; 1973 (58) 67.)

SECTION 18. Assignment and regulation of territories for electrical and gas utilities.

Sections 15 and 16 of this article notwithstanding, the General Assembly shall provide by general law for the assignment and regulation of territories for electrical and gas utilities within consolidated political subdivisions, except within former municipal corporate limits as they existed on the date of consolidation whenever such municipality owns and operates its own electric or gas system. (1972 (57) 3184; 1973 (58) 67.)