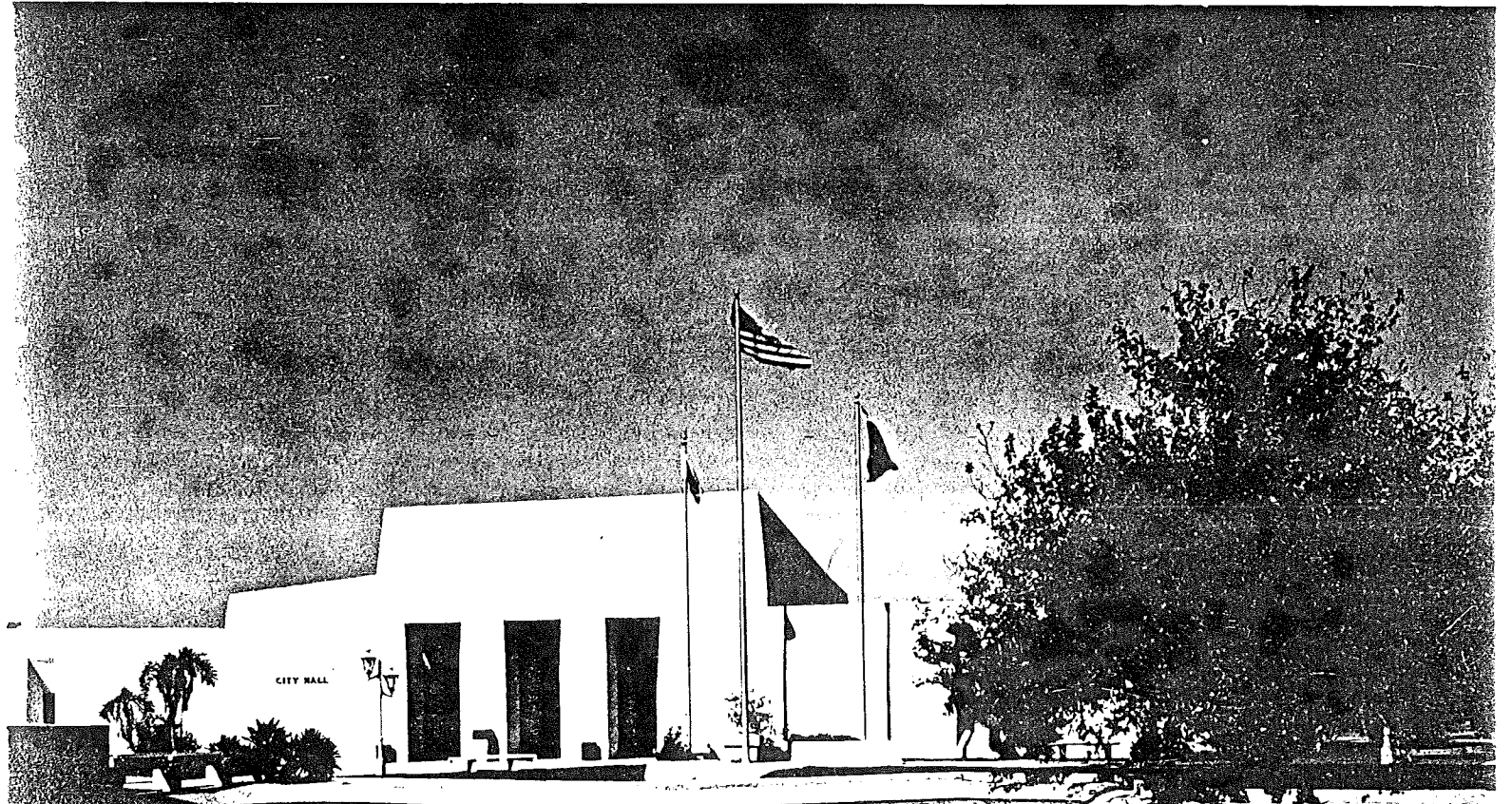


Arizona-Scottsdale-STEP Forum



step forum
january 8, 1974

STEP FORUM: BACKGROUND READING

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INTRODUCTION

INTRODUCTION

This booklet has been prepared to provide background information and to assist you in the discussions and considerations to be undertaken during the forum.

It is requested that you familiarize yourself with these materials prior to the date of the forum.

Through its statutes, the state enables cities to incorporate, gives them their governing powers and their sources of revenue. By the same token, during legislative sessions, the state may increase or decrease these powers and revenue sources. For these reasons, the Scottsdale City Council has determined that during this important legislative year an understanding of pending legislation is important to our citizens. They have decided to provide this opportunity for you to hold a discussion of current legislative issues relating to cities and their operations during this forum.

Since the forum is being held prior to the 1974 Legislative session, it is not possible to know exactly what issues will be in the forefront of its considerations. And because legislative issues are so subject to change, the enclosed materials represent only the facets of issues known to date. There will be a panel presentation at the beginning of the forum to provide you with the most recent information available on the issues.

The Citizens of Scottsdale

As you consider the materials on each of the legislative topics, there are several questions to keep in mind. These are: 1) what is the intent of this piece of legislation?, 2) what effect will it have on cities such as Scottsdale?, 3) accordingly, what should be added or deleted from the proposed legislation to make it more relevant to cities and towns?

AGENDA

STEP FORUM
SAFARI HOTEL CONVENTION CENTER
JANUARY 8, 1974

AGENDA and SCHEDULE

- 7:30 a.m. - Registration and Coffee
- 8:00 a.m. - Mayor Tims: Welcome
- 8:10 a.m. - Panel Discussion: State Legislature
- 9:30 a.m. - Questions and Answers
- 10:00 a.m. - Group Discussions
- 12:00 Noon - Luncheon
Speaker: Governor Jack Williams
- 1:30 p.m. - Continue Group Discussions
- 2:30 p.m. - Group Reports
- 3:00 p.m. - Adjourn

FORMAT

FORMAT

The forum will open with a panel discussion. The panel will discuss from various points of view the intents and consequences of various legislative proposals. A short question and answer period will be held after the panel presentation. Then the attendees will divide into four discussion groups to consider the assigned topics.

The members of the group should select someone to serve as its reporter. A staff member will be assigned to each group as a recorder. Council members will serve as discussion leaders.

With the assistance and guidance of the discussion leader, each group will discuss its first assigned topic in the morning portion of the forum. Once the members of the group are satisfied that it has considered and discussed the various aspects and affects of this legislative issue it may move on to consideration of the second topic. Should a group complete discussions on the assigned legislative issues, it may move on to any other legislative issue described in the prepared materials.

Governor Jack Williams will be the lunch speaker. He will speak on the need for local interest and involvement in the legislative process.

At the end of the day, each group reporter will give a brief report to the entire forum regarding the conclusions and recommendations of his group.

The groups' recorders will prepare written reports of the discussions compiled from these notes. After review and approval by the discussion leaders and group reporters, the final report will be printed and distributed to all STEP Forum participants as soon as possible.

COUNCIL OF GOVERNMENTS

COUNCIL OF GOVERNMENTS

Background

Citizens of the United States lives under several layers of governments. Commonly these include, in Arizona, the Federal Government, the State of Arizona, a county government, a municipal government, a school district, and may include one or more special purpose districts, such as an irrigation district, a hospital district, and a fire prevention district. With the development of many districts - or government entities - it is inevitable that, unless a degree of coordination is exercised, these entities from time to time will find themselves working at cross purposes in various areas.

Recognizing the need for coordination and cooperation on an area-wide basis, Federal grant-in-aid programs have stressed and required area-wide planning in the areas of water and sewer development, health facilities development, manpower development, criminal justice, juvenile delinquency prevention and control, housing development, economic development, OEO programs, as well as other areas.

Also recognizing the need for area-wide planning and responding to federal requirements, cities and counties in the last few years have established Planning Councils on a regional basis. Maricopa County and the 18 cities and towns in the county are one of these regional councils (MAG - Maricopa Association of Governments).

Role of State Government

The role of state government in the development of regionalism has been primarily a supportive one, allowing for a maximum degree of local autonomy to deal with local problems. The action of the Governor in requiring only that regional planning organizations conform to uniform boundaries and have governing bodies representative of the people of the area, and the support of the Arizona Department of Economic Planning and Development are examples of this policy.

Experience Elsewhere

Several alternative approaches to regional planning have been implemented in various areas. These approaches are:

- (1) The "Unigov" approach is to consolidate county, city, and as many as possible of the special purpose districts in the county into one governmental entity. Some examples of this are: the City and County of San Francisco; Nashville and Davidson County; Indianapolis and county.
- (2) Metropolitan government, in which the cities and a county would combine for certain purposes with each

retaining a measure of its own identity also has been effected. The goal of this approach is to maximize economy through commonality of service and jurisdiction. Metropolitan Dade County provides an example of this approach.

- (3) A third alternative has been the development of regional councils of governments in which representatives of all governmental agencies in a given geographic area form a voluntary organization to provide a forum for discussion of common problems. (The Maricopa Association of Governments (MAG) provides an example of this approach).

This last approach has met with considerable success in a number of areas and is generally much more acceptable to both citizens and local officials than any attempt to actually combine the various governments within an area. Frequently a major problem, however, has been that regional councils of government which merely serve as forums for debate cannot effectively channel the resources of their region into the solution of common problems.

The Maricopa Association of Governments

The Maricopa Association of Governments (MAG) is the local version of council of government. It was created by officials of local government in the urban portions of Maricopa County in response to the recognized needs for solutions to urban problems on a regional basis. This organization is a voluntary association composed of all the local governmental jurisdictions in the metropolitan area of Maricopa County. The decision to participate in MAG is made by the local governing body. By the same token, any member may at any time withdraw from MAG by passing a resolution of withdrawal. MAG came into existence in January, 1967, for the general purposes of mutual interest to local governments in the Phoenix urban area and ensuring, through cooperating and pooling of common resources, maximum efficiency and economy in governmental operation which will provide every citizen the utmost value for each tax dollar. An additional purpose in the creation of MAG was development of a vehicle for the review of activities called for by Section 204 of the Federal Demonstration Cities and Metropolitan Development Act of 1966.

MAG is governed by a Regional Council consisting of one elected official from each member government, in addition to the State Highway Commissioner from District I who serves as an ex officio member of the Council. Serving under the Regional Council is a Management Committee consisting of city or town managers or clerks of each member city or town and the County Manager of Maricopa County. The State Highway Director and State Highway Engineer also serve as ex officio members of the

Management Committee. A number of standing and special committees are appointed by the Regional Council on the advice and recommendation of the Management Committee. A standing committee is responsible for conducting studies and projects as a continuing function. The standing committees of MAG are:

- Transportation Committee
- Public Works Committee
- Planning Committee
- Comprehensive Health Planning Committee
- Building Codes Committee
- Housing Committee
- Library Committee
- Criminal Justice Coordinating Committee
- Criminal Justice Technical Advisory Committee
- Advisory Committee on Aging

The Future

Indications are that both the State and Federal government will increasingly look to regional organizations for policy information concerning local and regional needs and priorities. The increasing awareness of and interest in area-wide problems and priorities on the part of local government indicates a willingness on the part of local governments to work together to assume this responsibility. Thus, regional organizational structures which involve local officials, at both the policy and administrative levels, can, and in all probability will, play an increasingly significant role in intergovernmental decision making, both among units of local government and between levels of government.

There have been discussions proposing state legislation affecting the role, structure and presentation of C.O.G.'s. Members of the Interim Gas Tax Committee have taken a close look at MAG's role, particularly in valley-wide planning and coordination with an eye toward "making them more responsive to local officials needs".

This indicates proposed legislation would deal with proportionate representation and statutory restriction of the C.O.G.'s planning role.

The effect of proportional representation would diminish the voting impact of the suburban communities, and, if based on a one-man-one-vote concept, would give domination by cities such as Phoenix. Restricting the planning activities of C.O.G.'s, might mean expanded state agencies to carry out these programs thus increasing state control over local governments and by-passing the C.O.G.'s system. State encroachment into these critical planning areas may well preclude meaningful local decision making, pre-empting fundamental municipal functions.

TRANSPORTATION PLANNING

TRANSPORTATION PLANNING

Background

Transportation planning in this material relates to both commodities and people moving. In the past, planning of state highways has been accomplished by the State Highway Department, county roads by the county, and city streets and transportation by each individual community.

As the valley metropolitan area grows, it has become increasingly apparent that planning on an individual basis does not meet its traffic and transportation needs. Changes in the street patterns in one city, for example, affect traffic patterns in the next.

With the advent of the Maricopa Association of Governments, Scottsdale and the other Maricopa County cities have been given the opportunity to engage in county-wide cooperative transportation planning. Through MAG, which is staffed primarily by representatives from the various jurisdictions, each community presents a five-year street plan. This system is basically one of local planning with regional cooperation.

The State Legislature recently passed a bill creating a Department of Transportation, effective July 1, 1974. This department will unify the current State Highway Department and State Department of Aeronautics. The department will have six divisions:

- (1) Highways
- (2) Aeronautics
- (3) Motor Vehicle
- (4) Administrative Services
- (5) Public Transit
- (6) Transportation Planning

Proposals

The division of the Department of Transportation which will most effect cities and towns is the Transportation Planning Division. The goals and objectives to be considered by the legislature in determining the role for this division include:

Goal:

Plan for an integrated and balanced state-wide transportation system which will be responsive to the mobility needs and desires of people and serve the efficient movement of goods.

Objectives:

- (1) Define and establish the organization of the Transportation Planning Division

- (2) Begin development of a State-wide Transportation Plan.
- (3) Clarify the role of DOT's Transportation Planning in relation to local governments and the six regional councils of government.
- (4) Plan and develop mid and long-range transportation programs matched to anticipated revenues and coordinated with all department functions.

Effect of Proposals

The effect of the role of the state in transportation planning will depend on the intent and interpretation of the legislative goals and objectives which are adopted. For example, clarify the role of DOT's Transportation Planning in relation to local governments and the six regional councils of government.

MANAGING THE URBAN ENVIRONMENT

MANAGING THE URBAN ENVIRONMENT

Background

In the last regular legislative session, Senate Bill 1026, the Urban Environmental Management Act, was passed and signed into law. The bill "related to cities" and provided for "urban environmental management."

Provisions:

This act recognizes the central role that the city plays in determining the urban form of a community. It authorized cities who did not have the power granted them previously to establish planning agencies and to:

1. adopt and administer a Comprehensive General Plan;
2. adopt, administer, and enforce zoning ordinances;
3. adopt, administer, and enforce rules, regulations; and standards governing the subdivision of land; and
4. practice open space conservation.

Most Arizona cities see these steps as comprising the basic planning, directing and controlling elements necessary to translate development ideals into reality. For this reason, it is believed that each element must be consistent with the other, and must be capable of enforcement. Thus, for many cities, the Urban Environmental Management Act was a landmark piece of legislation. The Act provides long-needed support for the concept of environmental management at local or community level.

Each city in Maricopa County is different, and each has its own distinctive urban form. While certain uniform standards for reasons of health, safety and justice are necessary, many cities believe they should be allowed maximum flexibility in choosing the type and style of residential, commercial and industrial development they desire. If a city wishes to have more stringent standards and policies than those promulgated by the State, it frequently seeks that flexibility through its charter or ordinances.

Related Legislation:

Under Senate Bill 1014, an Environmental Planning Commission was established. This commission is examining areas of land use planning which are of "state-wide concern." This commission is expected to propose some legislation relating to state land-use policies. Under one concept, it may propose the commission and the office it advises could act as a technical clearinghouse for the types of data necessary for long-range and local land-use planning. Under another concept, the State might choose to preempt local self-determination by limiting the zoning and development review powers of the cities and towns.

Scottsdale is not alone in its desire to have or retain dedication, amortization and site plan review powers. The Arizona League of Cities and Towns, made up of all 65 of the incorporated cities and towns in the State, issued this policy statement last October:

During the 1973 session, the legislature passed Senate Bill 1026, The Urban Environmental Management Bill. The cities and towns commend this positive action of the legislature which broadened and defined the authority of local government to coordinate the social, physical and economic inter-relationships existing in each incorporated community. Although broad in scope, the Urban Environmental Management bill did not provide all of the tools necessary to effectively increase the urban quality of life through planning and zoning. Additionally, there is a need for the implementation of a state land use planning program which would define the proper planning roles of the cities, towns, counties, regional councils of governments and the state. Therefore, the league supports legislation which would implement a state land use planning program and would extend to cities and towns authority to adequately manage the urban environment. Such legislation would include authorization for architectural design review and control, amortization of non-conforming uses, provide for the dedication of park land and for the taxation of development to provide additional services resulting from development.

GAS TAX REDISTRIBUTION

GAS TAX REDISTRIBUTION

Background

The issue of gas tax redistribution is based on the fact that cities and towns do not receive enough money under the current distribution formula to adequately construct and maintain their roads and streets.

Presently, there is seven cent tax on each gallon of gas sold in Arizona. Of the seven cents, five cents is called "regular gas tax" and two cents is referred to as "arterial gas tax." The arterial tax receipts only can be used for construction or reconstruction of major streets whereas the regular tax can be used for any street related purpose.

Cities and towns receive ten per cent of the regular five cent tax, counties twenty per cent, and the state the remainder. The arterial two cent tax is divided equally among four groups: the state, county, cities and towns and school districts. Under both formulas, distribution to cities and towns is based on county of origin and population.

For example, motorists in Phoenix are paying \$12 million in gas taxes and getting back only \$3.7 million. The remainder of the money goes to the state, county and school districts.

The legislature is aware of the inequities of the current distribution formulas and has considered a number of proposals. Most of these plans have dealt with distribution of funds raised through tax or fee increases rather than redistribution of existing receipts.

In January 1973, the State Senate passed a bill which would increase the gas tax one cent per gallon and the diesel fuel tax two cents per gallon. This increase would have raised an additional \$14.5 million a year for the whole state. Under one proposed distribution formula, 70 per cent of the increases in gas tax and 25 per cent of the diesel tax would be allocated to cities and towns. Scottsdale would have received an additional \$400,000 under this bill.

The House passed a compromise plan in March, 1973, which will raise \$13.2* million through increased highway user charges. Specifically, increases were approved for driver license, car registration, truck weight, and license plate fees. This proposal was adopted by the legislature and the receipts from the additional charges are to be placed in a Highway Trust Fund pending redistribution of all road user fees.

* As of November, 1973, the State of Arizona estimates that the fund will have \$8.3 million in 1973-74 and \$12.4 million in 1974-75.

It will be necessary for the state to devise how the additional funds raised by the highway user charge be distributed.

Proposals

Although the legislature is not currently reviewing any detailed proposals, a number of alternative methods could be considered.

- (1) In some states, such as Ohio, cities can increase the license fee by a specified amount and the state will return that amount for all vehicles registered in the city. Five dollars, for example, could be added to every license fee from a registered vehicle in Scottsdale and the money earmarked for use on our street system.
- (2) Currently, gas tax revenues are distributed by county of origin (the county in which the gas was sold) and to cities within the county on the basis of their population. Perhaps this distribution method could be changed to county of origin of sale. Scottsdale would receive the benefit under this scheme of gas sales to shoppers and tourists.
- (3) The money received from the existing tax could all be distributed to cities. This alternative would have a substantial positive impact on cities but would take funds away from the State and counties. Since their need for street funding also is great, other sources of revenue would have to be found for their programs.
- (4) Another alternative would be to charge extra to drivers who would like special license plates and distribute that extra income to cities. Many people enjoy having a plate with their initials or a particular word on it. Revenue from this voluntary additional expenditure by the car owner could benefit cities.
- (5) Currently, school districts receive 25 per cent of the arterial gas tax. With very few roads to maintain, this distribution in effect uses gas tax receipts for education. The legislature is presently receiving school financing and may make a change in this area. If this is done, the funds could go to cities for much needed street capital improvements and maintenance.
- (6) Another alternative would be to allow cities to tax automobiles and other vehicles. In some states, such as Illinois, the city can require an annual

registration fee. This fee produces revenue for streets and roadways.

- (7) The increased highway user charges could be distributed solely to the cities. Although this fund will only total \$8.3 million by July 1, 1974, it is expected to grow to \$12.4 million in the 1974-75 fiscal year. If these additional funds are divided among the State, counties, cities and towns, there will be little benefit to the city. If all the funds go to cities, their street construction and maintenance programs will improve.

Effect

In the issue of street construction and maintenance funding, any proposal which would bring more revenue to cities to meet the needs of their transportation system would be positive. The proposal should place the burden of cost equally on highway users and distribute the funds among the various jurisdictions in an equitable manner.

LOCAL TAX LIMITATION

TAX LIMIT PROPOSAL

Background

There currently is an Arizona Legislative committee considering the possibility of a tax limit program for Arizona. In November, 1973 a similar program, based upon a tax limit initiative was defeated by the California voters. It is believed by some that the proposal of a tax limitation would require a constitutional amendment ratified by voters. There are sections pertaining to the income tax which authorize the state to make up deficits by heavier taxes in the next year which would need changing.

While no proposal has been drafted for Arizona as yet, it is anticipated that it will be borrowed from the one in California. However it appears the Arizona plan will be less complicated than the California one. The basic concept of the plan as it is presently envisioned will prohibit the state from spending or collecting more than 7.5 percent of a taxpayer's total income. This income would be personal income from all sources from the individual to business and industry. The concept is to tailor government spending to the taxpayer's income. Thus tax revenues would rise and fall with the economy, assuring a high level of services in inflationary periods and normal letdowns when the burden would become too heavy.

Some Key Provisions of California Plan

Expenditure Ceiling - At the heart of the measure was the proposal that expenditures from state tax revenues be limited to their current percentage of state personal income and that this percentage decline by one-tenth of one percent a year. Economists estimate the current ratio at 8.3 percent. Thus, the limit on state spending during the 1974-75 fiscal year would have been 8.2 percent. Beginning in 1989-90, the year when the limit would have reached 7 percent, the legislature would be allowed by two-thirds vote to eliminate further reductions in the limitation. As a safeguard against a sudden decline in personal income, an alternate formula provided that at no time shall the limit be less than the amount collected per capita in the current fiscal year as adjusted for inflation.

Increases Authorized - The overall expenditure limitation could have been increased or decreased by a majority vote of the people in state-wide election. Such a proposal would be placed on the ballot by a two-thirds vote of the legislature or through the initiative process. The limitations also would have increased to provide local property tax relief if there was a commensurate reduction in property tax rates.

Tax Refunds - In the event the state collected more money than it could spend under the limitation formula, the legislature would be required to make periodic tax refunds or reductions from a special tax surplus fund.

Two-thirds Vote Requirement - The plan also required a two-thirds vote of the legislature for the institution of a new tax or a change in the rate of any current levy. A two-thirds vote of the legislature also would be needed to give local government the right to levy a personal income tax. Other local government taxes would remain subject to change by majority vote.

State Mandated Programs - The plan would place in the constitution the requirement that the state provide the funds for any new or augmented program mandated on local government. There are certain exceptions, such as the creation of a new crime, which presumably would require additional work by local law enforcement agencies.

GLOSSARY

State Tax Revenue - means the revenue of the state from every tax, fee, penalty, receipt and other monetary exaction, interest in connection therewith, and any transfer out of the Tax Surplus Fund other than for tax refund, except Excluded State Revenues are not part of State Tax Revenues.

Intergovernmental Transfer Payments - means dollar amounts received by the state from the Federal Government or any local entity or school district except those taxes, fees and penalties imposed by the state and collected by the local entity or school district for the state.

Employment Trust Funds - means the Unemployment Fund, Unemployment Administration Fund, Unemployment Compensation Disability Fund, Old Age and Survivors Insurance Revolving Fund, State Employees Contingency Reserve Fund; and the Public Employees Retirement Fund, Teachers Retirement Fund, Judges Retirement Fund, Legislators Retirement Fund, and other similar retirement funds.

Expenditure - as used herein, an expenditure occurs at the time and to the extent that a valid obligation against an appropriation is created. For the purpose of capital outlay in connection with this Article, a valid obligation shall be considered to have been incurred when the legislature appropriates the funds.

Maximum Property Tax Rates - means the property tax rate or rates and ad valorem special assessment rate or rates for any local entity.

Local Entity - means any city, county, city and county, chartered city, chartered county, chartered city and county, taxing zone, special district or other unit of government encompassing an area less than the entire state, or any state-wide district, or any combination thereof in existence on the effective date of this Article or any such entity established thereafter. Local Entity does not include a school district.

School District - means the entities specified as parts of the public school system and includes community colleges but does not include the state university and college system.

PRE-EMPTION OF LOCAL REVENUE SOURCES

PRE-EMPTION OF LOCAL REVENUE SOURCES

Background

During the current special session of the Arizona Legislature, several members have made proposals that, if passed, would shift tax revenue from the cities to the state to finance public education.

Last session, the legislature proposed a bill allocating a portion of the state's federal revenue sharing to provide property tax relief. If this and other proposed legislation were to become law, Scottsdale and other Arizona cities will face a substantial drop in revenues. This would be well below budgeted expectations. Such legislation would create problems at any time, but it is especially critical now, when inflation and the fuel shortage are combined with rapid population growth to place enormous demands on basic city services.

The present proposals validity and rationale are not being questioned. The only issue is the state's attempts to pre-empt certain sources of revenue previously collected by Scottsdale and other cities, without providing alternate sources of funds with which cities will be able to carry out their functions.

The proposals are:

1. Elimination of Sales Tax on Food

Several bills are currently under consideration which would increase the state sales tax by one per cent but would eliminate the tax on foodstuffs. This would be done by grocery tax at the cash register or by providing taxpayers with an income tax rebate equivalent to the amount they spend in food tax.

Scottsdale levies a one per cent sales tax on all goods sold in the city. An increase in the State tax would not affect the city rate since the entire increase will be earmarked for education. Between eight per cent and ten per cent of the sales tax collected annually by the city, however, comes from sales of food. Table 1 shows the dollar amounts collected from sales tax on food.

TABLE 1

| <u>Fiscal year</u> | <u>Grocery Tax Revenue</u> |
|--------------------|----------------------------|
| 1971/72 | \$319,012.83 |
| 1972/73 | 381,354.93 |
| 1973/74 | 434,071.92 (est.) |

If the sales tax on food were removed at the cash register, the loss to the city in the current budget year would be 8.8 per cent of the total sales tax collection, or \$434,000 plus \$160,000 in city share of state collection.

2. State Collection of Privilege Tax

Several cities, including Phoenix, have made or plan to make agreements with the state for state collection of privilege tax. The state would return to the cities their respective shares of the tax. Serious consideration has been given at the state level to require all cities in Arizona to submit to State Tax collection.

Because of our auditing practices, tax experts in the Scottsdale Finance Department have made several estimates of the effect of state privilege tax collection on Scottsdale. One estimate, based on the City's superior auditing capability, shows a loss of about \$285,000. Estimates of loss due to business transactions involving firms located outside the city range from a low of \$125,000 to a high several times that if many of these firms report work done in Scottsdale to the city in which they are located.

Tax Audits

The City of Scottsdale employs 10 tax auditors, the State employs 24. Thus, the city is able to carry out a more thorough auditing program and to cover a greater percentage of businesses each year than the state. Better auditing is one of the reasons why Scottsdale collected \$14.56 more privilege tax per person in the last budget year than the State and is the fifth largest per capita collector in the state. Last year the city increased its tax collection six per cent due to audits; the state increased its collection by only 1/2 of one per cent through audits.

Situs

If the state were to collect all privilege tax, it would probably use the situs concept to determine the point of origin of a business transaction and thus which city merits a portion of the tax. Basically, situs refers to the location of the sale of a product. In the case of construction, situs refers to the job site, and in a lease, it refers to the place where the leased product is used. The problem with this concept is that a company with offices in one city which does business in other cities, such as a contracting firm or a computer leasing firm, would save money if it did not break down its transactions according to city, but could report all transactions with a single dollar figure. Scottsdale is able to prevent much of this by careful audits. But if the state were to pre-empt the City's

tax collecting power it would have neither the manpower nor the incentive to assure that each city receives its share.

Table 2 shows a hypothetical example of the ABC Company, a contracting firm with headquarters in Chandler. The figures show the amount of construction ABC did in several cities during 1973.

TABLE 2

| | |
|------------|----------------|
| Chandler | \$ 400,000 |
| Glendale | 234,000 |
| Mesa | 501,000 |
| Peoria | 198,200 |
| SCOTTSDALE | 1,042,000 |
| Tucson | <u>821,000</u> |
| Total | \$3,196,200 |

Assume that ABC in order to cut accounting costs, keeps track of only the total amount of work, and reports it to the State Tax Commission at the end of the year as work carried out from the company's home office. After collecting ABC's tax, the State would return one per cent of the total figure, or \$21,062 to Chandler. Scottsdale would lose \$10,420. Without the ability to audit outside companies doing business in the City, this figure would be multiplied many times each year.

3. Residential Rental Property Tax

Rented or leased residential property is currently taxed at commercial property rates, or 25 per cent of assessed valuation. A bill now in the legislature would lower this rate to 18 per cent. Scottsdale has a large number of apartments and an accurate estimate of the annual loss to the City has not been calculated.

4. Elimination of Rental Privilege Tax

In addition to a property tax on residential rental property paid by the landowner, there is a privilege tax on rents paid by the renter. Bills to eliminate this tax have been introduced several times at the state legislature without success, and it is not unlikely that another bill to the same effect will be introduced in a future session. The elimination of this tax would result in a tax loss to the City of some \$125,000.

URBAN BILL OF RIGHTS

URBAN BILL OF RIGHTS

Background

At the current time, there is no bill before the state legislature regarding "urban rights." The Urban Bill of Rights is a concept of the Arizona League of Cities and Towns which is interested in having such a proposal enacted into law. It is anticipated that this proposal will be introduced either as a bill in the legislature or as an initiative at the next election. To enable its application in Arizona there will have to be an amendment to the state constitution.

Proposal

The Urban Bill of Rights would mandate that the state could not enact new programs or requirements for the cities that would increase city expenditures without providing the revenues or means of financing said programs.

In the past the Arizona legislature has passed programs such as Public Safety, Personnel Retirement and Landfill Requirements that have caused significant increases in costs to the cities. For example, the Personnel Retirement program last year cost Scottsdale more than \$65,000. This action by the legislature has forced cities to provide the extra costs either by cutting back on existing programs. This type of action by the state in essence has allowed the state to set priorities for local governments.

The Urban Bill of Rights is proposed in the interest of "balanced budget" and "honest budgeting." It would provide the means of carrying out programs rather than the "bankrupt" practice of mandating cities to provide programs without providing the financial means to support them.

Experience Elsewhere

The California legislature has had a bill introduced which contains a similar provision. It has not yet passed. California SB 90 reads in part:

"The State shall pay to each county, city and county, city and special district, the full costs of a new program or increased level of service of an existing program mandated by any state executive regulation issued after January 1, 1973."

OPEN MEETINGS

OPEN MEETINGS

Background

During the 1962 Session of the Arizona State Legislature, Arizona became the 27th State to adopt an open meeting law. (Section 38-431, Arizona Revised Statutes). The intent of this legislation is, "it is the public policy of this State that proceedings in meetings of governing bodies of the State and political subdivisions thereof exist to aid in the conduct of the peoples' business. It is the intent of this act that their official deliberations and proceedings be conducted openly."

Provisions

This law has not been amended to date. It provides that all official meetings at which any legal action is taken by governing bodies must be public and that anyone wishing to attend must be allowed admittance. It also requires that minutes be taken at all official meetings and that such minutes be open to public inspection.

The law does make certain exemptions from the open meetings requirement based on the following criteria:

- (1) That executive sessions not be used to defeat the purposes of the open meeting law.
- (2) That no ordinance, resolution, contract, appointment, or other official action be finally approved at an executive session.
- (3) That executive sessions may be called only by a majority vote of the members of the governing body.

The open meeting law provides that courts may issue a writ of mandamus requiring that a meeting be open to the public if it is proved that the provisions of the open meeting law have not been met. The law also provides that any business transacted in a meeting held in violation of the provisions of the open meeting law is null and void and that it is a misdemeanor to violate the provisions of the law.

Effect

The effect of this legislation has been to require all governmental bodies except the state legislature to deliberate publically and use executive sessions in a limited way. (The Attorney General held that a "school board could go into executive session during a regular board meeting to discuss questions pertaining to operation and policy of school districts if any final action taken by the board of trustees was taken in an open meeting. Op. Atty. Gen. No. 62-18-C.)

Experience Elsewhere

In certain other states, notably Florida and Colorado, more restrictive legislation is in effect. The Colorado law provides that all meetings of two or more members of any governmental body at which any public business is discussed are declared to be public meetings open to the public at all times. No meetings where discussion or adoption of any proposed formal action occurs or which a majority or quorum of the body attends may be held without full and timely notice to the public. (It has been argued that strict construction of similar language in California's "Brown Act" could prohibit most political cocktail parties because a majority of some governing body might attend or "discussion" of a proposed action might take place between two or more members of such a body.) Although some political observers have termed the Colorado act "unnecessary" and "foolishness rather than restraint" attempts to modify it in the last legislative session were unable to muster the votes to amend the initiative.

The basic provisions of the Colorado Act were introduced as S.B. 1292 in the 1973 regular session of the Arizona Legislature. No committee action was taken on the proposal.

Recent Actions

In the 1973 session the Arizona Senate did pass S.B. 1077 which would have amended Section 38-431 by adding a definition of "Legal Action" as "a collective decision, commitment or promise made by a majority of the members of a governing body consistent with the constitution, charter or bylaws of such body and the laws of this state." It was widely felt that cities and towns were already complying with this provision since it was obviously the intent of the original law that no binding action be taken except in a public meeting.

The House Judiciary Committee changed S.B. 1077 as passed by the Senate in two important respects. They changed the definition of "Legal Action" by renaming it "Official Action" and adding the words "deliberations leading to and including a collective decision...." They also added a provision concerning the power to preserve order and eject persons who disrupt the conduct of a meeting.

The "deliberations leading to" language in the Judiciary Committee's version was construed by some legislators to mean that four council members going out to lunch together, who discussed city business on which they later made a decision, could be in violation of the law.

The House Committee of the Whole in an amendment of the Judiciary Committee's version of S.B. 1077 clarified the language and made several major changes in the 1962 law under which governments now operate.

COURT REFORM

COURT REFORM

Background

The Arizona lower courts are the justice of the peace courts and municipal courts. They are not courts of record. The justice courts exist in the counties and the municipal in incorporated cities and towns. This court structure is decentralized, with the state imposing only broad overall structural and fiscal controls. There is no centralized management structure to coordinate territorial and subject matter jurisdiction.

Of the 148 lower court judges, 89 are justices of the peace and 59 city magistrates presiding in municipal courts. Eighteen of the justices of the peace also serve as city magistrates for a municipality.

The requirements in Arizona permit justices of the peace to serve if they are 18 or older, residents of the state and precinct in which they are to serve, and able to read and write English. In general, they do not have legal training. They are elected on partisan tickets for a four-year term.

City magistrates, who preside in municipal courts, are appointed for a two-year term. In the main their requirements are the same as those of the justices of the peace but some municipalities have additional ones including the requirement that the judge be an attorney.

The lower courts have jurisdiction over minor or misdemeanor crimes, preliminary stages of felonies cases, violations of city ordinances and traffic violations. Justices of the peace also have jurisdiction in some subject matter areas where city magistrates have none -- civil cases and coroner's inquests and in civil cases where there is less than a \$1000 controversy. The jurisdiction of the justice of the peace court sometimes overlaps into that of the municipal court.

Fines collected in justice of the peace courts are paid to the county with the court's operating cost borne by the county and expenditures controlled by state law. Fines collected in municipal court go to the city treasurer with the court's cost borne by the city. The revenues in municipal courts generally exceeds expenditures. For example, Scottsdale Municipal Court (1971-72) revenues totalled approximately \$175,00 and expenditures approximately \$45,000. The difference reverted into the city's general funds.

Proposals

It is anticipated one or more court reform bills will be introduced during the upcoming legislative session. One of the proposals is that of a district court system. This would involve a number of changes in the present system:

Jurisdiction - The municipal and justice of the peace courts to be replaced by district courts under the Superior Court with all jurisdiction transferred to the district court. This proposal recommends retaining one justice of the peace court in each county as a small claims court.

Qualifications of judges - The district court judges would be appointed by the Superior Court from a list of nominees prepared by the County Board of Supervisors. The nominees shall be of good moral character, at least 30, a resident of Arizona for at least four years prior to appointment, and admitted to the practice of law in this state.

Status - The district courts would be courts of record under the Superior Court jurisdiction.

Finances - The expenses and district court facilities cost would be provided by the county with the county able to contract with the cities and towns for services and facilities. District judges salaries to be paid one-half by county and one-half by state.

Sixty-one percent of all monies paid as fines or forfeitures in criminal actions would be retained by the city or town in which the offense occurred and 39 percent paid to the county treasurer. The full amount will go to the county when the offense occurs outside city or town limits.

COMPULSORY ARBITRATION

COMPULSORY BINDING ARBITRATION

Background

Public employees organizations with the right to negotiate contracts regarding wages and working conditions have not been recognized by the Arizona Legislature. In the last session of the legislature, a bill was introduced which would have provided compulsory binding arbitration legislation in disputes between employees and their public employers. It failed to pass.

Compulsory binding arbitration is a procedure by which either party in a labor-management dispute may determine the existence of an impasse in negotiations. Either one then can require the dispute to be settled by a disinterested third party whose decision is final and binding. Essentially a last resort means of impasse resolution, it is seldom used until all other means of negotiations have failed.

The bill introduced did not provide for any of the initial or intermediate negotiating steps. Compulsory binding arbitration under it would have provided no flexibility in dealing with labor-management problems. By failing to create the give and take necessary to reach a mutually acceptable solution, the bill might have caused many cases to result in a decision neither labor nor management could accept.

Because of the special nature of government, it is necessary that certain rights of management be vested in the public through their elected officials. Compulsory binding arbitration could have the effect of transferring these rights to municipal and other government employees. A third party could, by granting salary increases far exceeding a city's ability to pay, would force the administration either to raise taxes or cut public services in another area. In spite of considerable experience in public labor management negotiation, states such as Pennsylvania and Michigan which have compulsory binding arbitration have faced this situation.

There are many alternatives to the rigidity of compulsory binding arbitration that would enable labor and management to begin with milder procedures and, as experience and sophistication is gained, adopt more complex and demanding procedures later.

There are several other methods used in resolving disputes which have subtle differences. They include: collective bargaining, meet and confer, voluntary arbitration, mediation, fact finding, and unit determination. Regardless of the method selected, it still requires considerable experience on the part of both labor and management to negotiate mutually acceptable

agreements without seriously disrupting agency functions.

The compulsory binding arbitration proposal does not allow the parties involved to develop expertise in the public management-labor sector and could create a situation of chaos for labor and management as well for the public.

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