History of the Expenditure Limit
Attorney General Opinions

Relevant Attorney General Opinions

Since the creation of the expenditure limits in 1980, the Arizona Attorney General has weighed in on a number of issues related to their implementation. Importantly, the AG has issued several opinions that clarify what revenues are included or excluded from the constitutional definition of local revenues.

This document summarizes the AG opinions that are relevant to the expenditure limit from 1980 forward.

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I80-204
Related to base limit calculations

Full Opinion Text

Requesting party: J. Elliot Hibbs, Chairman, Economic Estimates Commission, Arizona Dept. of Revenue

Opinion Author: Steve J. Twist, Chief Assistant

Attorney General: Robert K. Corbin

Issue: *"…how the "base limit" for fiscal year 1979-1980 is calculated for cities, towns, counties, and community college districts."*[1]

What we need to determine is what is meant by the phrase, 'actual payments… for fiscal year 1979-1980.'"[2]

Opinion Conclusion: *"Because the EEC is mandated by the Constitution to determine the 'base limit' for counties, cities, towns and community college districts, we think it may take reasonable steps to establish the 'base limit' in the absence of legislation prescribing a specific method of determination. The EEC may choose any method of determination, including the establishment of a cut-off date, which is not inconsistent with the Constitution. 4/ We suggest, however, that you seek legislative clarification on these issues."*[3]

I86-031
Related to judgments against a jurisdiction

Full Opinion Text

Requesting Party: Douglas R. Norton, Auditor General

Opinion Author: Bob Corbin, Attorney General

Attorney General: Robert K. Corbin

Issue: *"… whether satisfaction of a judgment rendered against a county, city or town would constitute an expenditure of local revenues when determining whether that entity has exceeded the constitutional expenditure 1/ limitation…"*[4]

Opinion Conclusion: *"Generally, if a judgment arises out of a non-collusive tort, its satisfaction does not fall within the expenditure limitation. If the judgment arises out of a contract, it must be considered within the expenditure limitation."*[5]

I86-075
Related to transportation excise taxes

Full Opinion Text

Requesting Parties: Senator Alan Stephens, Representative Doug Todd

Author: Bob Corbin, Attorney General

Attorney General: Robert K. Corbin

Issue: *"… whether revenues from the county transportation excise taxes and the public transportation excise taxes authorized by Laws 1985 (1st Reg. Sess.) Ch. 308 are subject to either the counties' constitutional spending limit or to the counties' statutory budgeting process."*

Opinion Conclusion: *"For counties of population 1,200,000 or more persons [Maricopa] and for counties of population between 400,000 and 1,200,000 persons [Pima], we conclude that revenues from the transportation excise tax that are deposited to the RARF are <u>not</u> subject to either the counties' expenditure limitation or to the counties' statutory budgeting process. These revenues are exempt because the authorized uses of the funds fall within the exceptions for bond related or highway construction expenditures or because they are collected for a distinct governmental entity, the regional public transportation authority, and not for the county. Revenue from the public transportation excise tax authorized for Maricopa County also is collected for the regional public transportation authority and is therefore exempt.*

For the other counties, the transportation excise tax revenues are 'local revenues' for the county and the city and town recipients of the funds and will be exempt from each entity's expenditure limitation only if the uses to which they are put fall within the exemptions for expenditures for construction or bond related expenses"[6]

I88-017
Related to carry-forward of excludable revenues

Full Opinion Text

Requesting Party: Douglas R. Norton, Auditor General

Opinion Author: Bob Corbin, Attorney General

Attorney General: Robert K. Corbin

Issue: *"… whether a political subdivision may legally carry forward excludable revenues unexpended in the year of receipt for exclusion in later years?"*

Opinion Conclusion: *"These enumerate exceptions, referred to as 'excluded revenues' are not subject to the expenditure limitation. Ariz. Const., Art. IX § 20(3)(d)(i)-(xiv)… Therefore, if the political subdivision is otherwise authorized to carry such funds over into a new fiscal year without reversion, such revenues would retain their character as excluded revenues as long as the source can be identified"*[7]

"We concluded that each year's limitations are independent from one another and a political subdivision may not carry forward the excluded nature <u>of revenues already spent</u> [emphasis added]. *A political subdivision may not change the character of local revenues to excluded revenues by fiction."*[8]

I88-019
Related to the loss of federal funds and transfers of government functions

Full Opinion Text

Requesting Party: Representative Lela Steffey

Opinion Author: Bob Corbin, Attorney General

Attorney General: Robert K. Corbin

Issue: *"… whether the withdrawal of federal funding to Arizona counties, cities, and towns constitutes a transfer of the cost of providing a governmental function pursuant to Ariz. Const., Art. IX,§ 20(4) and, if so, whether A.R.S. S 41-563(D) is applicable."*[9]

Opinion Conclusion: *"We conclude that withdrawal of federal funds does not affect the computation of adjustment of expenditure limitations mandated by Ariz. Const., Art. IX, § 20 and A.R.S. § 41-563(D)."*[10]

"Consequently, while the withdrawal of federal funding to counties, cities, and towns may result in the transfer of the cost of providing a governmental function from excluded funds received from the federal government to the local revenues of the respective Arizona political subdivisions, any such transfer would not require expenditure limitation adjustments because no federal agency would qualify as a political subdivision, 1/ community college district, or school district."[11]

I90-057
Related to county ALTCS expenditures

Full Opinion Text

Requesting Party: Representative Mark Killian; Addendum requested by Douglas Norton, Auditor General

Opinion Author: Bob Corbin, Attorney General

Attorney General: Robert K. Corbin

Issue: *"…whether county expenditures for the Arizona Long Term Care System (ALTCS) are excludable from county expenditure limitations required by article IX, § 20 of the Arizona Constitution."*[12]

Opinion Conclusion: *"Because county ALTCS funds are "local revenues" for purposes of article IX, § 20, we conclude that expenditures of such monies are not excludable from county expenditure limitations."* [13]

"We have reconsidered the opinion and conclude that it should be modified only with respect to the effective date of the opinion. Our opinion continues to be that county ALTCS tax revenues are 'local revenues', for purposes of article IX, § 20 of the Arizona Constitution, and therefor, are not excludable from county expenditure limitations.

However, we are mindful of the severe hardship which this opinion will cause county governments; a hardship made particularly onerous because the opinion was issues after the date of county override elections and after the counties have adopted preliminary budgets in reliance on your earlier advice."[14]

Note: the legislature subsequently provided for the adjustment of county expenditure limits for the transfer of the long-term care program from the counties to the state. Laws 1993, Ch. 184 Sec. 2.

I91-013
Related to county anti-racketeering revolving funds

Full Opinion Text

Requesting Party: Douglas Norton, Auditor General

Opinion Author: Grant Woods, Attorney General

Attorney General: Grant Woods

Issue: *"whether authorized expenditures from a county's anti-racketeering revolving fund are subject to the Arizona Constitution's expenditure limitations. You have also asked whether the state's or a political subdivision's authorized expenditures from a county's anti-racketeering revolving fund are subject to the constitution's expenditure or appropriation limitations."* [15]

Opinion Conclusion: *"Except as discussed below, we conclude that the expenditure or appropriation limits prescribed in the constitution govern expenditures from anti-racketeering revolving funds."* [16]

"First, monetary awards reimbursing a county for prosecution and investigation costs fall within the definition of 'local revenues'," [17]

"The second source of CARF funds result from forfeitures by the county attorney. These CARF additional deposits also fall within the definition of 'local revenues'." [18]

"Third, money may be deposited into a county's CARF by governmental entities other than a county. A.R.S. § 13-2314.03(C). Such money is deposited into the CARF 'for the benefit of the agency or agencies responsible for the enforcement action' … Money held on behalf of another governmental entity falls within the definition of local revenues, but is excluded from the expenditure limitations of the County responsible for the CARF." [19]

I19-004 Related to pension unfunded liability

Full Opinion Text

Requesting Party: Lindsey Perry, Auditor General; Bill Montgomery, Maricopa County Attorney

Opinion Author: Mark Brnovich, Attorney General

Attorney General: Mark Brnovich

Issue: *"Maricopa County pays monies each fiscal year to satisfy the County's duty to pay annual amounts necessary to amortize unfunded liabilities for certain public retirement plans ("Amortization Amounts"). Are the Amortization Amounts excluded from "local revenues" under § 20(3)(d)(i)?"* [20]

Opinion Conclusion: *"No. The Amortization Amounts are not excluded under § 20(3)(d)(i). First, the duty to compensate county employees for their services, whether through salaries or benefits, is not a "bond or other lawful long-term obligation[]." Ariz. Const. Art. 9, § 20(3)(d)(i). The "other lawful long-term obligations" that are excluded from local revenues must be bond-like, and the County must receive "amounts or property" from their issuance or incurrence. Id. Payments for services do not result in the receipt of amounts or property. Second, the County did not voluntarily "incur[]" the Amortization Amounts as "long-term obligations," as the Constitution requires, id.; instead, those liabilities are the result of the statutory requirement that the County contribute to the plans on an annual basis, as well as the performance of the plans' investments, among other things. Third, the payment of the Amortization Amounts is not "required by a contract," id., but rather by "obligations created and mandated by the state." Rochlin v. State, 112 Ariz. 171, 176-77 (1975). Fourth, excluding the Amortization Amounts from local revenues would contravene article 9, § 20's history and purpose."* [21]

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