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R75-148
McDougal

August 25, 1975

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ARIZONA ATTORNEY GENERAL

Mr. James P. Wiley, Chairman
Deferred Compensation Committee
1831 West Jefferson
Phoenix, Arizona 85007

Re: Applicability of Arizona's Open Meeting Act
to the Deferred Compensation Committee

Dear Mr. Wiley:

You have asked the following questions concerning the applicability of Arizona's Open Meeting Act to the Deferred Compensation Committee:

1. May the Deferred Compensation Committee consider and discuss employees' applications to join the State of Arizona deferred compensation plan in executive session, so long as no final action is taken at that time?
2. If the answer to the first question is "yes", may the Committee refuse to allow members of the public to inspect an employee's application?

The answer to your first question is no. The Committee is a "governing body" as defined in the Open Meeting Act and is therefore subject to the Act and must conduct its business in open to the extent it conducts "legal action." (See attached copy of this office's opinion dated August 19, 1975). A.R.S. § 38-431.03 sets forth the circumstances under which the Committee may conduct executive sessions. The only provision in that section which might relate to your question is paragraph 2 of subsection A which permits the Committee to meet in executive session to consider "records exempt by law from public inspection." However, we know of no case law or statutory provision which exempts applications to join the



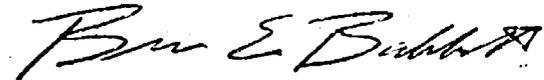
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Deferred Compensation Plan from public inspection and therefore this provision for the utilization of executive sessions appears inapplicable. Accordingly, you should consider such applications only as part of an open meeting for which proper notice has been given as required by A.R.S. § 38-431.02.

Our answer to your first question makes a response to question No. 2 unnecessary.

Sincerely,



BRUCE E. BABBITT
Attorney General

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