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June 26, 1979

LAW LIBRARY ARIZONA ATTORNEY GENERAL

The Honorable Jeffrey J. Hill
Arizona State Senator
Senate Wing, State Capitol
Phoenix, AZ 85007

Re: I79-167 (R79-176)

Dear Senator Hill:

In your letter of June 4, 1979, you sought our opinion as to the proper interpretation of the following section of Ch. 211, Laws of 1979 (House Bill 2088):

Sec. 5. Conditional enactment

The provisions of section 2 of this act shall not become effective unless the Internal Revenue Service authorizes an increase in reimbursement for automobile travel without documentation from the current rate of seventeen cents to twenty cents or more and if such increase is authorized section 2 of this act shall become effective on the date of authorization.

Specifically, you note that there are two possible interpretations of what happens on the "date of authorization" by the Internal Revenue Service. On the one hand, the legislation may be interpreted to apply prospectively from the date of authorization. On the other hand, since the date of authorization for IRS purposes applies retroactively to January 1, 1979, a possible interpretation is that this section should be applied retroactively for state reimbursement purposes.

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It is our opinion that the legislation must apply prospectively from the date of authorization by the IRS. How the IRS treats its "date of authorization" for tax purposes is not controlling for state purposes. The provision clearly states that the legislation "shall become effective on the date of authorization". A.R.S. § 1-244 provides that "No statute is retroactive unless expressly declared therein." Since there is no such declaration, we conclude that the provision becomes operative beginning on the date of authorization.¹

Sincerely,



BOB CORBIN
Attorney General

BC/mm

1. We note that any other interpretation is impossible because all monies revert to the general fund after June 30, 1979, so there would be no funds to pay additional reimbursements due from the prior fiscal year, if the IRS authorization date is more than 30 days after the close of the fiscal year.