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November 22, 1988

The Honorable Mark Killian
State Representative
State Capitol - House Wing
Phoenix, Arizona 85007

188-117 (R88-116)

Dear Representative Killian:

You have asked for an interpretation of A.R.S. § 28-2511 concerning the purpose for the election to be conducted pursuant to that provision. We conclude that the election provided for in this subsection is for the purpose of approving a countywide public transportation excise tax.

A.R.S. § 28-2511(E) provides:

If a majority of the members of the board^{1/} preliminarily approves a regional public transportation system plan, the plan shall be submitted to the county board of supervisors who shall order a countywide general or special election as specified by the regional public transportation authority board.

This provision, adopted in 1985, was part of a comprehensive enactment relating to transportation and taxation. See Laws 1985 (1st Reg. Sess.) Ch. 308, § 22. Although this provision does not expressly state the specific purpose for the election "[s]tatutory construction requires that the provision of a statute be read and construed in context with the related provisions and in light of its place in the statutory scheme." Brown Wholesale Electric Company v. Merchants Mutual Bonding Company, 148 Ariz. 90, 95, 713 P.2d 291, 296 (App. 1984).

^{1/}The term "board" means the board of directors of a regional public transportation authority. A.R.S. § 28-2501(2).

The legislature in two related provisions expressed its intention that the election is for the purpose of approving a countywide public transportation excise tax:

A. If a regional public transportation system plan is preliminarily approved pursuant to section 28-2511, subsection E, Arizona Revised Statutes, as added by this act, the board of supervisors of a county with a population of one million two hundred thousand or more persons shall order and call a countywide special election not to be held before September, 1988, for the purpose of approving a countywide public transportation excise tax as provided by this act or may cause to be placed on the ballot for the qualified electors of the county at a general election held in or after 1988 the question of approving a countywide public transportation excise tax as provided by this act. The board shall specify on the ballot the rate or rates of tax and the length of time each tax rate would be in effect. Such a tax must be approved by a majority of the qualified electors voting at the special election or by a majority of the qualified electors voting on the ballot proposition at the general election.^{2/}

Laws 1985 (1st Reg. Sess.) Ch. 308, 533(A). (emphasis added);
see also Laws 1985 (1st Reg. Sess.) Ch. 308, § 29.

We conclude that the election is for the purpose of approving the tax only and not for the purpose of approving the entire regional public transportation plan. There is no manifest indication either in the words of the statute or in the

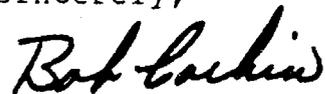
^{2/}This provision recently was amended to change the time in which the election need be held. See Laws 1988 (2nd Reg. Sess.) Ch. 346, § 33.

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legislative history that the legislature intended such a result. "[C]ourts will not read into a statute something which is not within the manifest intention of the legislature as gathered from the statute itself" and we decline to do so here. City of Phoenix v. Donofrio, 99 Ariz. 130, 133, 407 P.2d 91, 93 (1965).

We conclude that the election called for in A.R.S. § 38-2511(E) is for the purpose of approving a countywide public transportation excise tax.

Sincerely,



BOB CORBIN
Attorney General

BC:CW:LLR:lp