



# **State Action On Local Problems-1970**

Advisory Commission On Intergovernmental Relations

## ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

March 1971

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# **State Action On Local Problems-1970**

**intergov**

**ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS  
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## PREFACE

One of the focal points in the continuing debate over the viability of the American federal system is the proper role of the States in relationship to local governments.

The purpose of this report is to provide current background material on the dynamics of State-local relations. This is done by examining the amount and significance of State legislative and constitutional actions during 1970 as they affect localities, especially those in urban areas. This material updates information in the Commission's Eleventh Annual Report (January 1970) and two earlier staff studies on this subject.

Efforts by the States to resolve urban needs and problems are classified into five broad categories: strengthening the power of general local governments; aiding in specific program areas; providing leadership in coping with areawide and community problems; revamping State-local revenue systems; and furthering constitutional modernization. The intent is to summarize major 1970 State activities in these areas and to analyze their implications in terms of the emergence and development of certain broad trends in State-local relations.

This report contains no new suggestions of a policy character. It is issued strictly as an informational and reference document.

ROBERT E. MERRIAM  
Chairman

## ACKNOWLEDGEMENTS

This review draws on information from a number of sources, including: correspondence with a large number of knowledgeable observers, communications with legislative service agencies; State, municipal and county league journals, publications of the Council of State Governments; the *National Civic Review*; and the *Metropolitan Area Digest*.

The data herein was drawn together by the ACIR with the assistance of Phyllis Guss, a HUD intern assigned to the staff for this project, and Paul Steinbrenner, an INTERGOV intern. While strenuous efforts have been made to perfect our system of reporting State statutory and constitutional activities, the Commission readily concedes that this survey is by no means all-inclusive.

Wm. R. MacDougall  
Executive Director

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## INTRODUCTION

State governments occupy the strategic high ground from which basic urban and rural problems can be attacked most effectively. Because of their jurisdictional reach, legal authority, and fiscal power, States can provide constructive leadership and assistance on the local government frontier: by strengthening their counties and cities; by providing direct fiscal and program incentives; by expanding the local revenue base; by arbitrating inter-jurisdictional disputes – in short by fully recognizing and accepting their responsibilities as the “legal parents” of local governments. The States are uniquely suited to reconcile differences among strong special interests, both public and private, in metropolitan areas. Moreover, on matters such as land use, construction, program planning, governmental acquisition of property, public finance and mass transit, the States can bring to bear a detached vision of the public good.

From its inception the Advisory Commission on Intergovernmental Relations has worked continuously to encourage bold and innovative State action on emerging domestic issues. For the fourth consecutive year the Commission offers a summary of State constitutional and statutory action on urban and local government problems. These general observations are noteworthy:

- A majority of the States have expanded the discretion of general units of local government and upwards of four-fifths have enacted permissive measures providing voluntary means for localities to deal with areawide problems; it now is up to the localities in those States to make effective use of their new discretion.
- Some States have moved to strengthen county government, structurally and functionally, so that counties may deal effectively with areawide problems.
- Some States are moving to strengthen local fiscal powers: in 1970 a fifth of the States eased debt restrictions and authorized new sources of local revenue; four States pushed through property tax reforms.
- Growing awareness of functional and fiscal problems caused by excessive jurisdictional fragmentation is apparent in the few States that are beginning to address the politically hazardous issue of the jurisdictional adequacy of existing local governments.
- States are beginning to exercise greater leadership in the functional areas of transportation, housing and criminal justice, although responsibilities for these services are still largely shared between States and localities.
- Initiative in issues of areawide concern was manifest in State action in public labor-management relations in 20 States and in the environment in well over half the States. This underscores the crucial legal and jurisdictional authority of the States in the federal system.
- A handful of States are carving out a new role in planning and urban development, another example of the key role of the State in areawide issues.



- No State made a major breakthrough in strengthening its own revenue system in 1970 – although fiscal stresses during the year may have paved the way to action in 1971. By 1970, 45 States had a general sales tax, 37 had an income tax and 33 had both, a major change from the fiscal picture of 1960. But despite its clear superiority as a revenue producer in time of economic growth the income tax gets heavy use in only one-fifth of the States, and moderate use in another fifth.

- State constitutional revision continued unabated in 1970, with wholesale changes approved in Illinois, Virginia and North Carolina, balanced by defeats in Arkansas, Idaho and Oregon. The people approved nearly three-fifths of the separate amendments submitted in 34 States.

- Annual sessions now are the rule, not the exception. A total of 42 State legislatures met in 1970 – an “off year” – 29 in regular session only, nine in special session only, and four in both. Of the 29 regular sessions, those in Ohio, Tennessee, Vermont and Wisconsin were continuations of sessions initially convened in 1969.

# STRENGTHENING LOCAL GOVERNMENTS

Legislative action and constitutional referenda in 1970 expanded local government powers, increased the chances of interlocal collaboration and fostered jurisdictional reform in a number of States. States also strengthened their localities by expanding local fiscal resources.

## Home Rule

At least seven States authorized greater home rule for local governments.

Legislation in **Maine** implemented a constitutional home rule amendment approved by the voters in 1969 by providing for adoption and revision of municipal charters and for election of charter commissions.

The voters in **Maryland** approved an easier, alternate procedure for any county to come under the provision of charter home rule.

The **Missouri** electorate authorized charter counties to determine by referenda which services local and county governments are to supply to incorporated and unincorporated areas.

**Colorado** voters approved extension of local home rule and those in **New Mexico** endorsed a municipal home rule amendment. **California** voters approved a measure on November 3 which allows county governing bodies to prescribe the pay for their members subject to popular referendum. **Illinois**, in approving a new constitution on December 15, strengthened home rule by adopting the doctrine of residual powers and eliminating the application of Dillon's Rule which requires the State legislature specifically to delegate all local government powers.

**Nebraska** voters defeated an attempt to increase the number of electors necessary to petition for amending the charter of a home rule city or to call a charter convention.

## Interlocal Cooperation

At least five States moved in 1970 to expand the opportunities for interlocal cooperation.

**Rhode Island** authorized cities and towns to enter

into joint purchasing agreements and **South Carolina** approved a "Councils of Governments Act" permitting counties and cities cooperatively to undertake studies of service needs in a region.

In **Washington**, the legislature fostered greater cooperation between cities and counties by authorizing countywide bond issues for parks, public health, safety and storm water control facilities even though such facilities may be situated partially within cities and towns.

**Texas** voters approved a constitutional amendment authorizing performance of intergovernmental contracts between political subdivisions in a county; a majority of the **Louisiana** voters, however, rejected a measure to enable local governments to contract with each other for services.

Finally, a new **Illinois** constitution adopted in 1970 contains a strong intergovernmental cooperation section authorizing interlocal contracting for services and transfer of functions.

## New Jurisdictional Options

Annexation changes, multi-purpose districts, boundary commission powers and city-county consolidation authority were the focus of attention in a cluster of States. Efforts on this controversial front constitute attempts to provide new jurisdictional options to local governments and their citizenry.

The **Michigan** legislature enacted perhaps the most sweeping measure, permitting the State Boundary Commission under certain circumstances to order annexation to home rule cities. The Act did away with the old system of free holder petition followed by dual elections. The home rule city council may initiate annexation by resolution, but the Boundary Commission is to have final authority to modify, approve or deny annexations.

The **Georgia** legislature passed a municipal annexation act which aids localities of 5,000 population or more facing urban development problems. Under the act, such a municipality may plan annexation procedures by preparing a report, which includes an informational

map, a statement of preparations for extending municipal services, and a description of the urban character of the land proposed to be annexed. Stipulated annexation procedures require approval of the report by the municipality, a public hearing open to residents in both areas, and a referendum of registered voters residing in the area proposed to be annexed.

**Vermont** enabled more rational performance of certain municipal services by authorizing any two or more municipalities to form a union municipal district. The law specifies the contents of the agreements creating such districts and requires a referendum. Union municipal districts will have powers similar in all respects to municipalities since they are established as municipal corporations.

**Colorado** voters sanctioned an intergovernmental cooperation amendment which permits localities and citizens therein to establish areawide service authorities, which may perform one or more functions; to accentuate the multi-purpose nature of these authorities, no more than one such unit is permitted in an area.

Finally, in a pioneering move, **Kentucky's** legislature enacted a measure that permits counties containing cities with a population of 20,000-100,000 to form a consolidated city-county government by petition and referendum.

## Expanding Local Fiscal Resources

Several States enabled their localities to tap fiscal resources until now unavailable to them. **Washington** authorized its local governments to levy a .5 percent local sales tax. **California** allowed transit districts in San Francisco and Los Angeles to levy a .5 percent local sales tax and **Oregon** permitted the Portland metropolitan transit district to impose a .5 percent earnings tax on all residents in the district. **Kansas** tied its local sales and earnings tax authorizations to a property tax relief package, prohibiting local governments from raising more money from the property tax than they did in 1970.

In State actions affecting large cities, **Michigan** authorized Detroit to levy a maximum 5 percent utilities tax; and **New York City** was authorized to levy taxes on hotel and parking lot receipts and increase its commercial rent and occupancy taxes.

A few States made local debt practices more flexible. **California, Hawaii, Iowa, Missouri, New Mexico, Utah** and **West Virginia** raised statutory interest rate limitations on local bonds and **Arizona, Kentucky, Nebraska** and **Vermont** removed statutory limits on local bond offerings.

## ASSISTING IN SPECIFIC PROGRAM AREAS

State action in the fields of housing, health and welfare, education, transportation and criminal justice, though marked by fewer major new departures than in previous years, was nevertheless significant. In some cases, new laws dealt with local authority in these fields; in others, with shared State-local responsibilities; in still others, they focused on State financial or technical assistance.

### Housing

The ability of State government to act as a creative force in meeting the nationally recognized need for increased housing production and responsive urban development programs grew appreciably in 1970. Many State legislatures took positive action during their 1970 sessions, to involve State and local government in augmenting the supply of middle and low income housing through the enactment of comprehensive housing programs.

A package of housing laws enacted in **Georgia** will assist the construction of mass-produced housing by

providing technical and advisory assistance and State inspection of factory-built homes. Cities have wider discretion in selling land to non-profit and limited-profit sponsors of low-income housing and in redeveloping under-utilized lands. They also may use air rights over highways and railroads for urban renewal.

The Department of Local Affairs in **Colorado** henceforth will include a new Division of Housing. The new division will provide research, advisory and liaison services to local authorities promoting more adequate housing. The division also is to administer housing construction and maintenance standards developed by a new seven-member State Housing Board. Members of the board, appointed by the governor, have been granted authority to set housing construction and maintenance standards in areas where none exist. The board also is charged with making recommendations to the General Assembly and local governments concerning housing standards and building codes.

To alleviate the critical shortage of housing for low and moderate income families, several States enacted legislation designed to lower the costs of housing

construction and rehabilitation and to assist in home purchasing.

- **Ohio** enacted a new program for assisting limited-profit and non-profit organizations in housing development; a housing development board was set up to grant interest-free advances for housing construction and rehabilitation and to guarantee loans made for housing development by any lender.

- **New Jersey** created a Mortgage Finance Agency to make loans to mortgage lenders for the financing of new residential construction.

- **Maine** authorized the State Housing Authority to issue revenue bonds and purchase and sell first mortgages in order to provide housing for low income persons.

- **Michigan** appropriated \$300 million to the State Housing Development Authority for the purchase of 15,000 homes for low- and moderate-income families and the provision of up to 22,000 jobs, with an additional bonding authorization of \$250 million for the authority.

- **California's** Housing and Community Development Agency analyzed Federal programs to maximize their usefulness in meeting the State's housing needs; new legislation provided for the establishment of area housing councils by cities and counties and authorized local authorities to combine their resources and coordinate efforts.

- **North Carolina's** State Housing Corporation, created by a 1969 act passed the test of constitutionality in the State Supreme Court which also approved its exempt bonds to finance low-income housing.

- **Kansas** approved a Fair Housing bill.

- **Hawaii** legislation authorized mayors, with approval of councils, to designate areas of land for experimental and demonstration housing projects in order to develop ideas for reducing housing costs; the legislation exempted such areas from zoning laws and construction standards.

- **Massachusetts** enacted legislation to provide additional low-cost housing rehabilitation and home ownership programs through the State Housing Finance Authority and to empower the HFA to operate interest-subsidy and resident-ownership subsidy programs. It increased the State subsidy to local housing authorities for debt incurred in the construction of public housing and gave district courts equity power officially to resolve landlord-tenant controversies and related disputes.

- **Pennsylvania** appropriated \$1 million for a capital reserve fund for its housing authority. This will allow the agency to sell bonds and make mortgage loans to families whose income falls within the lower half of the range of non-farm incomes within the State.

Some States enacted laws that would remove

obstacles to the production of factory-built housing and, in some instances, spur its development. **New York** led the way with the establishment of a State version of HUD's "operation breakthrough" under its Office of Planning Coordination. The first part of this two-step program already has been completed with the development of a comprehensive housing operations plan. Sites remain to be selected for proto-type housing constructions. The **California** legislature established a State Commission on Housing and Community Development to formulate uniform health and safety standards for factory-built housing. It set up inspection procedures at factory sites to permit units that meet the standards to be certified there for installation in any California locality. Under this legislation, localities retain their jurisdiction over land use, setbacks, architecture and esthetics. **South Carolina's** legislature authorized construction of federally certified modular and factory-built housing regardless of local building codes.

Notable defeats in the field of housing occurred in five States when the voters failed to approve measures which would have increased the amount of funds available for low- and moderate-income housing development. The **Rhode Island** electorate defeated a \$10 million authorization for the self-help housing authority, while voters in **Michigan** turned down a \$100 million bond issue to finance the construction of low- and moderate-income housing in slum and blighted areas. The **Michigan** referendum would have permitted any county, city, village or township to apply for State funds to build low-cost housing. In **New York** the voters failed to approve an amendment to the public housing law which would have increased by \$20 million the amount of State subsidies for low-rent housing and urban renewal that may be outstanding in any one year. In **Georgia** and **Maryland**, voters turned down establishment of a State Housing office. The rejected Georgia proposal also included appropriations for financing low and moderate housing projects.

In the closely related area of general building codes, four States considered legislation designed to make local codes more uniform. **Rhode Island** required that municipal housing codes meet State standards. The governor has appointed a committee, with himself as a member, to consider the need for a State building code. The **Alabama** legislature enacted basic legislation to establish minimum housing codes. The **Virginia** legislature adopted a "codes by reference" statute allowing cities, towns and counties to adopt by reference any building, plumbing, electrical or gas codes and validating such ordinances already enacted. On the negative side, the **Michigan** legislature defeated a proposal that the State adopt a uniform building code for all areas not covered by local codes.

## Health and Welfare

A few of the States that presently share health and welfare costs with their local governments took steps to shoulder more of the combined load in 1970. **Nebraska** adopted legislation providing for State assumption of 75 percent of the cost for treatment of indigent mental patients which formerly was borne entirely by counties. **Ohio** doubled the State reimbursement to counties for the operation of community mental health retardation programs. **Virginia** allocated \$4 million to be used in helping its local governments meet categorical assistance costs. Virginia also will be taking over the full cost of welfare in June 1972, leaving only 13 States where local governments share in the cost of financing categorical assistance.

To improve health delivery services, **New Jersey** authorized contiguous municipalities in different counties to create consolidated local health departments. The act also permits municipalities within a single county to establish a health district by adopting parallel ordinances.

## Education

For the first time, the legislature of **Michigan** projected a new school aid formula one year ahead. For fiscal 1971-72, school aid will be based on a sliding scale formula to provide greater aid to the lower valued districts. The act also provides that school district personal income tax can be used as an alternative to a portion of the school operating millage. The operation of this income tax option, however, will have to be implemented by statute at the next session. Significantly, 50 percent of the State budget in 1969-70 went to State aid for education. The legislature passed a resolution to reimburse cities and villages for school transportation costs beginning one year from adoption. Also projected for next year are funds for a new State program to help school districts meet debt services and school building needs tied to a reduction of local millage for these purposes.

**Tennessee** authorized local government units, boards of education, and school superintendents to establish and operate joint educational facilities and services. **Arizona** granted similar intergovernmental authorization by allowing for the creation of multi-county school districts.

Two States, **California** and **Iowa**, increased State aid to local schools through their equalization aid programs. A new **Kansas** law provides for annual State distribution of not less than \$26 million for local school operating expenses and adjusted the valuation per pupil formula

for each district. **Illinois** and **Maine** significantly hiked their aid to education in 1970.

On a negative note, **California** voters defeated a proposal that would have allowed, subject to a referendum, county superintendents of schools to be appointed rather than elected. The voters of **Hawaii** rejected proposals to authorize the legislature to determine the method of selecting boards of education (now elective) and to remove existing requirements that a superintendent of a school system be appointed by the board of education.

## Transportation

**Maryland** became the first State to establish a comprehensive transportation trust fund to finance highways, ports, airports and mass transit. This fund will be financed by highway user taxes and charges, motor vehicle fees, a portion of the corporate income tax, and aviation fuel taxes.

The **Ohio** legislature expanded the powers of regional transit authorities to undertake port and airport services as well as ground transportation services. Such authorities may issue revenue and general obligation bonds, levy a property tax to finance operations, and purchase or supervise existing franchised agreements.

The **Hawaii** legislature committed itself to assist the City of Honolulu in developing a mass transit system through an appropriation to match Federal aid for a \$1.5 million planning and design study. The legislature also authorized counties to use fuel tax revenues and motor vehicle weight tax revenues for mass transit purposes.

Municipalities in **Arizona** were permitted to create mass transit authorities that may issue bonds and levy a property tax to meet operating deficits. The voters in Arizona also approved a measure to remove restrictions on the distribution of highway user revenue to cities and counties.

**Virginia** empowered its highway commission to use highway revenues for mass transit. In **California**, however, voters rejected a proposal that would have permitted the use of highway revenues for construction of mass transit systems and payment of transit system bonds.

## Law Enforcement and Criminal Justice Administration

In contrast to the two previous years, State law enforcement and criminal justice legislation in 1970 focused on the reorganization and revitalization of court

and prosecutorial systems rather than on police needs and the prevention and control of civil disorders. A growing desire on the part of State legislators to deal with campus unrest also was evident. But corrections continued to receive only limited legislative attention compared with the other components of the criminal justice system.

Illustrative State legislation on courts and prosecution included:

- In **Colorado**, creation of an intermediate court of appeals and State assumption of full cost of operating the lower courts, facilitating the efforts of the State supreme court to perform its assigned function of supervising lower court budgets. These measures contained a series of court reforms begun in 1959.

- In **Tennessee**, authorization of State assumption of the costs of all criminal prosecutions for offenses punishable by death or imprisonment, assignment to the State supreme court of broad supervisory authority over all inferior courts, and creation of General Sessions Judges Conference to coordinate the administration of justice throughout the State.

- In **Pennsylvania**, a law requiring minor judiciary members to complete a course of instruction prior to taking office if they had not previously passed the State bar examination.

- In **Vermont**, an act streamlining judicial procedures, redefining the powers and functions of State's attorneys, establishing more flexible sentencing provisions, authorizing courts to require the filing of a presentence report, and directing the Joint Criminal Justice Study Committee to examine the possibility of setting up a district attorney system.

- In **Oklahoma** and **Colorado**, creation of public defender systems. The Oklahoma system operates within the municipal courts, while Colorado's is under the direction of an administrator appointed by the State supreme court.

- In **New Jersey**, authorization for the State attorney general to assist and, in certain cases, to supersede county prosecutors in investigating and prosecuting criminal activities.

Referenda on proposed constitutional revision in 1970 also significantly affect the courts.

- **Nebraska** voters favored a mandatory reapportionment of supreme court judicial districts following each Federal decennial census. They also approved proposals authorizing the State Supreme Court to call retired supreme court or district court judges for temporary duty, making experience in the practice of

law a requirement for judicial selection, and providing residence requirements for judges. The Supreme Court was assigned administrative responsibility over all State courts; the constitutional basis for justice of the peace courts was repealed; and the legislature was permitted to create a system of county courts.

- The people of **Missouri** approved several changes in the State court system, including provision for additional appeals courts, gradual elimination of court commissioners, mandatory retirement of judges at age 70, provision for a court administrator and a commission on judicial discipline.

- **Arizona** voters supported the creation of a commission on judicial qualifications.

- The **Maryland** electorate adopted a proposal for a district court system, but rejected gubernatorial appointment of circuit court judges.

- **Indiana** approved a "merit plan" approach for selecting judges.

- **Texas** voters approved a constitutional provision for the removing, retiring or censoring of judges.

On the negative side, court reform suffered some major setbacks. **Louisiana** voters, for example, rejected several proposals, including a provision for creation of city courts in certain wards, authorization for the legislature to modify the jurisdiction of selected city and traffic courts, and the designation of additional judgeships for the East Baton Rouge Parish family court. The **Florida** electorate again defeated a proposed revision of the State judicial system (the judicial article was not approved when the new State constitution was adopted in 1968).

On the police front during 1970, **South Dakota** and **Nebraska** sought to upgrade their law enforcement personnel by setting minimum qualifications for such officials and imposing certain curriculum requirements for police training centers. **Oklahoma** created a Commission on Criminal and Traffic Law Enforcement, and set up a uniform crime reporting system that required law enforcement agencies to feed information into it. **Delaware** authorized local police departments to enter into mutual aid agreements. **Wisconsin**, **Oklahoma**, **Nebraska** and **California** were among States which enacted laws last year dealing with campus disorders.

Only limited significant legislative action occurred in the corrections field in 1970. **New York** created a new Department of Corrections designed to consolidate and coordinate State and local correctional efforts. At the same time, the legislature clarified the State's code of criminal procedure. **Arizona** was the second State to make a substantial corrections reform effort. Its legislature authorized the release of prisoners to work on

voluntary medical research, community betterment, disaster aid and other public service projects. Community correctional centers for prison inmates and parolee residents were also established, and furloughs from these centers were permitted for employment, education and training. The State Department of Corrections was

charged with assisting paroled or discharged offenders in obtaining employment and its director was authorized to enter into agreements with cities and counties for the transfer of prisoners to jails and for prisoner participation in the rehabilitative programs of such institutions. The State will pay cities or counties for the support of these transferees.

## SOLVING URGENT LOCAL AND AREAWIDE PROBLEMS

Issues in planning, development and land use, environmental quality, relocation and public labor-management relations grow increasingly interfunctional and areawide in scope. Action in 1970 demonstrated greater State involvement and direct leadership to solve these urgent problems. One method of solution came through innovations in State financial help.

### Planning, Development and Land Use

Action affecting statewide, regional and local planning development and land use regulation occurred in a number of States.

The most innovative State legislation in land-use control was **Maine's** Site Location Law which authorized the State's Environmental Improvement Commission (EIC) to regulate any industrial or commercial development involving more than 20 acres or single structures of 60,000 square feet or more. Under the new law, the EIC may disapprove development that does not have the financial capacity to meet State air and water pollution control standards, lacks an adequate transportation plan, or has an adverse effect on the environment. The EIC is required to hold public hearings on these matters, and at these hearings, "... the burden shall be on the person proposing the development to affirmatively demonstrate that each of the criteria for approval has been met and the public health, safety, and general welfare will be protected." **Vermont** enacted somewhat similar legislation for State review of proposals for any commercial, industrial, or residential development of over 10 acres. And it mandated State zoning of all development in areas with an elevation of over 2,500 feet.

**Colorado** created a State land-use commission which was authorized to develop a statewide land-use map and corresponding plan. The commission was also charged with conducting research on land-use interrelationships in the State as well as developing an information system on Colorado's ecological systems. **Oregon** voters turned down an attempt to repeal 1969 legislation that empowered the State to enact land-use controls in those jurisdictions not taking such steps by December 1971.

To better regulate shoreline development, **California** passed three laws which guaranteed the public "reasonable access" to shore areas of oceans, lakes and reservoirs, and required developers to dedicate "access" land in any shoreline developments. In other actions to provide for more orderly urban development, **Maine** and **Washington** enacted preferential assessment laws designed to discourage too-rapid conversion of suburban and rural land. Washington's law provided that land qualifying for preferential assessment remain in its "actual use" for ten years. Maine's law demands back taxes of five years if the land is converted, while Washington's legislation requires that all back taxes for ten years be paid.

**Maryland** enacted legislation granting property tax exemptions for land used for nature conservancy purposes and ultimately intended for public ownership.

Substate planning and development regions or districts were created in **Alabama**, **California**, **Louisiana**, **New Mexico**, **North Carolina**, and **Utah** during 1970. A total of 35 States have taken such action. With the exception of California and Louisiana, where the districts were established under existing authority granted a State agency, the regional districts were created by executive order of the governor. All the newly created districts are responsible for regional comprehensive planning, functional planning such as health, transportation, and law enforcement, and coordination of State agency services and Federal multi-jurisdictional grant-in-aid programs affecting local governments.

The pattern to date for designation of substate planning and development regions or districts in nearly two-thirds of these States has been through executive action; one-third were established by State legislation or interlocal agreements.

Two States enacted legislation to encourage development of new communities. The **Arizona** Planned Communities Act permits the owner of a large tract of land to petition the county board of supervisors and the State Community Development Council (created by the Act) for the formation of a general improvement district. The district is empowered to exercise all basic

municipal powers except the police power and the power of eminent domain. The amount of bonds the new community district may issue can not exceed the assessed valuation of the land plus the valuation of improvements for which the bonds are being issued. The seven-member Council is charged with approving the initial petition of a developer for formation of a district, approving the issuance of all bonds authorized by the district, and providing continuing surveillance over the district in the performance of its functions.

The **Kentucky** legislature also authorized establishment of new community districts subject to final approval of county and school district governing bodies. The districts may exercise general municipal government authority, adopt zoning regulations, and initiate condemnation proceedings to acquire land for public use.

### **Environmental Quality**

Legislation in 1970 gave initial evidence of full scale State commitment and direct leadership to achieve environmental quality. Significant measures included State governmental reorganization for environmental control, broadened fiscal support for environmental protection, stricter regulations over air and water pollution and solid waste disposal, and the design of innovative programs to control environmentally-related problems.

State administrative reorganization was one of the more widespread activities in this area. **New York** consolidated all its environmental and natural resource programs into a Department of Environmental Conservation which was charged with developing statewide environmental standards. **Illinois** consolidated all its pollution control statutes and created three units to deal with them: an Environmental Protection Agency to administer the act; a Pollution Control Board as a rule-making body; and an Institute for Environmental Quality to conduct research.

**Washington** created a State Department of Ecology with centralized air and water pollution control and solid waste management powers. A seven-member ecological commission also was created to advise the Governor. **Vermont** established an Environmental Conservation Agency whose Environmental Protection Division has coordinated enforcement powers in matters of pollution control. **Pennsylvania** created a Department of Environmental Resources.

In other administrative moves:

- **California** established the State Planning and Research Office which was charged with developing an environmental monitoring system as well as reviewing proposed State plans to determine their effect on the environment.

- **Colorado** created the post of coordinator of environmental problems in the office of the governor.

- **Delaware** created a Department of Natural Resources and Environmental Control.

- **Hawaii** set up a multi-faceted Office of Environmental Quality designed to set pollution control standards and conduct long-range environmental research at the University of Hawaii.

- **Kansas** set up an Advisory Council on Ecology.

- **Massachusetts** created the Executive Office of Environmental Affairs.

- **New Jersey** reorganized the Department of Conservation and Economic Development into the Department of Environmental Protection, with expanded pollution control powers.

Action to coordinate and consolidate environmental agencies can be expected to continue. A comprehensive Environmental Management Act was to be introduced in **Indiana** and studies on environmental control departments are underway in **Colorado, Iowa** and **Virginia**.

States also provided greater fiscal support for environmental quality through bond issues, "buying-in" programs, and property and other tax exemptions for pollution control equipment.

At the November elections, the voters approved bond issues in:

- **Alaska**: \$11 million for sewage treatment facilities;

- **California**: \$250 million for sewage treatment construction;

- **Illinois**: \$750 million for pollution control facilities;

- **Maine**: \$4 million for oil-spill control;

- **New Mexico**: \$1 million for sewage treatment;

- **Oregon**: \$173 million for anti-pollution facilities;

- **Washington**: \$25 million for water pollution abatement; and

- **Wisconsin**: \$144 million for water pollution control over ten years.

In other State action, **Florida**, pending a constitutional referendum, pledged \$100 million annual bond funding for pollution control purposes while **Maryland** raised by \$15 million the amount of State money available for sewage treatment grants and authorized a \$5 million bond for reclamation of abandoned mines.

**Alabama** exempted pollution control equipment for corporate income, excise, franchise, sales, use and property taxes. **Hawaii** and **Rhode Island** exempted such equipment from sales, income, and property taxes. **Tennessee** exempted it from only the property tax.

"Buying-in" measures in **Kansas** and **Florida** created water pollution control funds to finance 25 percent of



sewage treatment projects aided by the Federal Government. Florida law provides that no project shall receive "buying-in" aid unless ten-year forecasts of water resource needs are made in connection with the affected project. Similarly, **Louisiana** authorized \$15 million in revenue bonds for a 25 percent buy-in on water pollution control projects; **New Jersey** appropriated \$30 million for a comparable program; and **Ohio** appropriated \$100 million for a 30 percent buy-in for sewage treatment plants and interceptor sewers.

**Maryland** created the Sanitary Facilities Fund to aid localities in the financing of planning for solid waste disposal systems and solid waste acceptance facilities. **New York** took action to share half the cost of solid waste disposal planning while the Ohio Water Development Corporation was authorized to aid local solid waste disposal projects.

In two major measures, **Maryland** and **New York** created full-scale environmental finance corporations to aid localities in the construction of various types of environmentally related projects. In **Maryland**, an Environmental Service Administration was authorized to work with local governments in preparing integrated solid waste, water, and sewage disposal plans. It may contract with localities to build sewage treatment or solid waste disposal facilities and — if directed by the Secretary of Health or Natural Resources — may build facilities in localities where there is a "health crisis" due to lack of sufficient sewage and solid waste services. **New York** reconstituted the Pure Waters Authority as the Environmental Facilities Corporation and expanded its loan authority to support environmental research as well as expanding its contract powers in the areas of water management facilities, storm sewers and air pollution control projects.

Several States made considerable progress in revising and expanding their powers in the air pollution control field. New or expanded air pollution control bodies were established in **Alabama**, **Arizona**, **Colorado** and **South Dakota**. Air pollution bodies in **Pennsylvania** and **Arizona** were authorized to set standards and evaluate programs for motor vehicle emission control while **Colorado's** commission was charged with the responsibility for developing ambient air quality standards throughout the State. **Ohio** expanded its commitment to a cleaner environment by creating an Air Quality Development Authority which may float bonds for the construction and acquisition of air pollution control facilities.

Other States required greater local activity in the air pollution field. **Massachusetts** directed all State and local agencies to cooperate with the State Health Department in controlling air pollution. **North Carolina** clarified the authority of local governments to structure

air pollution control programs, while **Alabama** authorized the use of local corporations for this purpose. **California** required all localities to be in a regional air pollution control district by 1971 and also authorized the State Air Resources Board to set air pollution control standards if local ones were judged inadequate. **California** set a \$6,000 per day penalty for air pollution violations, and stiff fines for such violations were enacted in **Tennessee**.

"Pay as you pollute" legislation was a major innovation in water pollution control in 1970. **Michigan** and **Vermont** adopted such measures. The Michigan law required all polluters to pay a fee of \$50 plus a graduated amount based on the amount of pollution generated. To identify the polluters, all firms were required to file annual reports on pollutants discharged into the State's waters.

**Vermont** required anyone seeking to pollute the State's waters to apply to the Environmental Conservation Agency for a permit. If the department finds the proposal within tolerable limits, it will issue a discharge permit. Those rejected may apply for a temporary discharge permit which will allow the holder to pollute the water for a limited time provided he pays a fee. The legislation clearly stated that the purpose of the fee is to provide financial incentives for polluters to reduce the volume and degrading quality of their discharge.

In reaction to the increasing number of damaging oil slicks in coastal areas, several States enacted stringent oil pollution control laws. One of the toughest was **Washington's** where legislation made any person owning or having control of oil entering the State, strictly liable for spills without regard to fault. In addition to a \$20,000 fine for each violation, violators are liable to pay damages equal to the sum necessary to restore water quality. **Maine** enacted similar legislation granting the Environmental Improvement Commission (EIC) full powers to prevent oil pollution. The Commission also was authorized to license and regulate oil terminal facilities.

**Alaska** set a minimum penalty of \$5,000 for oil ballast discharges from sea-going vessels; **Florida** authorized its Department of Natural Resources to prevent and control oil spills, license terminal facilities, and finance a coastal protection fund. **Massachusetts** toughened its oil spill laws through minimum penalties of \$10,000 per violation and the requirement of a \$25,000 bond for vessels unloading oil at the State's ports.

**Maryland** empowered the State Department of Health to set the location of any sewage treatment facility discharge point in county plans. **New Jersey** required all localities to submit sewage treatment plans to the Department of Environmental Protection with

special emphasis on "... community development of comprehensive regional sewerage facilities...". **Rhode Island** passed legislation permitting the New England Interstate Water Pollution Control Commission to operate water pollution control programs in areas near the State's borders as well as reaffirming Rhode Island's commitment to expanding the operations of this regional body.

States also passed significant legislation to help localities deal with their solid waste disposal problems. **Kansas** directed each county and city to prepare a plan for a solid waste management system by June 1974. **New Jersey's** Environmental Protection Department was authorized to register all solid waste disposal operations in the State, formulate a statewide solid waste management plan, and encourage regional approaches to coping with solid waste. The department was authorized to construct solid waste disposal operations on an experimental basis as well as conduct long-range research on waste management. In a similar vein, **North Carolina** directed its State Board of Health to undertake solid waste research, standard-setting and inspection. **Oklahoma** legislation focused on areawide waste disposal operations and authorized interlocal agreements for solid waste management purposes.

## Relocation

Prompted in part by the relocation provision of the 1968 Highway Act, at least four States considered action dealing with the problem of relocation of persons and businesses displaced by governmental construction programs. **New York** amended its law with a new program of supplemental payments. Homeowners will be granted up to \$5,000 over the fair market value of the property taken when required to purchase adequate and comparable replacement housing. Tenants will be able to claim up to \$1500, which may be used either for rent supplement or for a down payment on the purchase of a house. Other provisions of the new act remove a \$25,000 limit on moving expenses and permit reimbursement of actual moving costs — which may be made in advance.

**Hawaii** authorized State funds to be used for relocation payments to persons displaced by action undertaken by a county governmental agency.

Proposals for relocation payments, however, failed in two States. Voters in **Louisiana** rejected a proposal to authorize the legislature to permit payment of moving and relocation costs for property acquired by the State or local governments for highway or other public purposes. In **Massachusetts**, an amendment to the existing relocation payments statute intended to ease

hardship cases failed. The proposed legislation would have provided that relocation payments not be considered as income for the purpose of determining eligibility for public housing.

## Public Labor-Management Relations

During 1970, nearly two-fifths of the States enacted measures dealing with public labor-management relations. In contrast, only one-fifth of the States enacted new or substantially amended statutes of this type at the 1968 and 1969 session.

Most of the 1970 measures involved relationships between State and local public employers and certain occupational categories, such as teachers, policemen, firemen and nurses. Comprehensive legislation with policies and procedures covering virtually all local employees and usually State personnel was enacted by only two States, bringing the total number of States which have taken this broad approach to at least 22. Eighteen States now have comprehensive laws providing for "collective negotiations" between public employers and organizations representing their employees, while four States have more limited "meet and confer" statutes.

State action on the public employer-employee relations front last year was generally encouraging. However, many States still have a long way to go in recognizing the root sources of employee unrest and much remains to be done in developing workable procedures to assure employees a voice in determining the terms and conditions of their employment, and to settle disputes over such matters without recourse to strikes.

Last year witnessed a major shift on the strike issue. The legality and propriety of work stoppages by public employees has increased as a major bone of contention among State and local employers, employee unions and associations, Federal and State courts, and the general public. Two States — **Hawaii** and **Pennsylvania** — approved legislation in 1970 that removed prohibitions against public employees engaging in strikes provided certain conditions are met, including the exhaustion of all available dispute resolution procedures and assurance that a work stoppage did not jeopardize public safety and welfare. These are the first States to enact comprehensive measures that explicitly permit strikes, although it has been contended that a few others implicitly authorize this practice through statutory silence. In addition to removing the ban on strikes, **Hawaii's** omnibus collective bargaining law required public employers to deduct agency service fees for the exclusive bargaining agent, and established a five-member Public

Employment Relations Board appointed by the governor. In **Pennsylvania's** Public Employee Collective Bargaining Act, policemen, firemen and mental hospital and court personnel were the only groups prohibited from striking. Public employees were authorized to organize and bargain collectively over wages, hours and working conditions. Employers were required to "meet and discuss" certain issues with first-line supervisors. The effect of these actions regarding strikes will be followed closely by many observers.

A wide variety of other 1970 State legislation affected public employees including:

- **Idaho's** legislature passed a bill requiring public authorities to "meet and confer in good faith" with the exclusive bargaining agent of firefighters, and providing for the submission of unresolved issues to a factfinding panel for recommendations.

- Legislation enacted in March granted **Kansas** teachers the right to join or to refrain from joining employee organizations and authorized labor and management representatives to negotiate agreements; such agreements may include procedures for final and binding arbitration of grievances.

- **South Dakota's** legislature amended its "meet and confer" statute to authorize public employers to "meet and negotiate" with employee representatives. Other new provisions permitted the negotiation of grievance procedures and the intervention of the State Commissioner of Labor in an impasse on the request of either party.

- Amendments to **Alaska's** collective bargaining law for teachers provided for exclusive representation, mediation of impasses, and the inclusion of grievance procedures in all negotiated agreements.

- Amendments to **Vermont's** public employer-employee relations statute extended collective bargaining to firefighters effective July 1; mediation, fact-finding, and binding arbitration procedures were authorized.

- **Maine** revised its Municipal Public Employees Labor Relations Law by providing for the adjudication of disputes over the appropriateness of bargaining units and specifying the scope of judicial review of decisions

by an arbitration panel or by the Public Employees Labor Relations Appeals Board.

As in other fields, public innovations in public labor-management relations were rejected in some areas. In **Louisiana**, for example, the legislature failed to pass a bill that would have authorized firemen to engage in collective bargaining with city and county employers. This proposal also would have permitted them to strike in certain instances. Voters in **Florida, Kansas, and Iowa** defeated proposed collective negotiations measures.

In 1970, groups were organized to study the desirability and feasibility of adopting new or modifying existing public labor-management relations legislation. Such efforts are now underway in over one-third of the States, including **Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maryland, Minnesota, New Hampshire, New Mexico, New Jersey, New York, North Carolina, Ohio, South Carolina, Texas and Utah.**

### **Innovative Fiscal Aid**

In a major piece of legislation, **Vermont** created the Vermont Municipal Bond Bank, authorized to buy local bond issues from the proceeds of its own sale of revenue bonds. As of January 1971, the Bond Bank had sold \$45.7 million of tax-exempt bonds, easing the fiscal strain on Vermont localities which had had difficulties in marketing their bonds.

**Illinois** and **New York** substantially increased unconditional State aid to local governments in "revenue sharing" from the proceeds of the State income tax. The New York program, for example, is to provide \$600 million the first year of operation, 1971-72. As part of further local fiscal aid, New York earmarked for its localities one-third of the revised State lottery and allowed cities of 125,000 population or more to set up off-track betting operations.

**New York** also authorized the State to administer the New York City personal income tax. **Oregon** legislation empowered the State Department of Revenue to assist local governments in collecting local non-property taxes as well as in aiding localities with revenue estimates of proposed local non-property taxes.

## REVENUE EFFORTS

State legislation in 1970 expanded State fiscal resources, eased the burden of State-local taxes on the poor and the elderly and rationalized the administration of the property tax.

### State Tax Actions

In major fiscal actions, **New Jersey** raised its State sales tax from 3 to 5 percent. **Louisiana**, in hiking its sales tax from 2 to 3 percent, became one of 18 States with this rate.

State action on the income tax was less noticeable. **West Virginia** raised its income tax rates by 75 percent and **New Hampshire** enacted a 4 percent income tax on non-residents.

Other significant State revenue measures included:

- Tax rate increases on cigarettes in **Kansas**, **Kentucky**, **Louisiana**, **Michigan**, **New Hampshire**, **Pennsylvania** and **West Virginia**;
- Corporate income tax hike of .5 percent in **Kansas** and 1 percent in **Rhode Island**, and a new 6 percent gross profits tax in **New Hampshire**;
- Gasoline tax rate increases in **Pennsylvania** and **West Virginia**.

### Easing the Tax Burden

Most action to ease the tax burden on the poor occurred in the area of property tax relief. **Kansas** enacted "circuit-breaker" legislation to allow the elderly to claim property taxes as a credit against their income tax liability. In **Kansas**, as in the four other States with this type of program, the State agreed to pick up the tab, thus relieving localities. A \$3 million State fund was created to finance the legislation.

Seven other States enacted some form of property tax relief for the aged:

- **Delaware** permitted all localities to grant exemptions from property taxes to the elderly on the first \$5,000 of assessed valuation if the recipient's income did not exceed \$3,000 annually.
- **Hawaii** increased its property tax exemption to \$16,000 assessed value for those over 60 years old and to \$20,000 assessed value for those over 70.
- **Idaho** granted a partial tax exemption on trailer homes owned by the elderly.
- **Massachusetts** liberalized its tax exemption laws

to provide for a tax exemption to the extent of \$4,000 valuation or \$350 in actual tax whichever is greater.

- **Michigan** raised the homestead income of the elderly from \$5,000 to \$6,000 to qualify for an exemption of \$2,500 State equalized value.

- **New York** liberalized its exemption to 50 percent of assessed valuation with the income eligibility limit raised to \$5,000.

- **Ohio** reduced property taxes for elderly persons by constitutionally reducing the taxable assessed values of their residential property.

In other related actions, **Hawaii** expanded its income tax credits for purchase of drugs and for expenditures connected with household rent, and **Kentucky** and **Nevada** exempted prescription drugs from the sales tax. **Massachusetts** enacted an income tax credit for corporations locating in poverty areas and also permitted such corporations to deduct 25 percent of the compensation paid to employees who live in poverty areas.

### Improving the Administration of the Property Tax

At least four States passed legislation providing for more efficient and equitable administration of the local property tax. In a major action, **Maine** authorized its State Tax Bureau to establish an educational program for the training of local assessors with a further requirement that all local assessors be certified by the Bureau before they can be employed locally. Assessors will be certified for five years and be subject to re-examination for certification at the end of that period.

**Arizona** permitted its State Board of Valuation to review county valuation changes and order a new valuation when deemed necessary. **Georgia** authorized its State Revenue Commissioner to examine county tax digests to assure that valuation of various classes of property were uniform. **New York** began implementing the Assessment Improvement Act which provides for certification and training of local assessors as well as expanded State technical services to counties, cities, and towns.

### Lack of Progress

No State adopted an income tax in 1970, though 13 States have none. In **Washington** and **South Dakota**, it was defeated at the polls in November. A corporate

income levy was also turned down by voters in these States. These referenda contained property tax relief features.

Removal of county tax limitations was rejected by **Nebraska** voters and proposals to set up a State agency

to purchase local school boards were reopened in **Ohio** and **Wyoming** in November. The voters of **Alabama** and **Missouri** rejected hikes in their personal and corporate income tax rates.

## CONSTITUTIONAL REVISION ACTIVITY

Efforts to amend or wholly revise State constitutions continued to represent a substantial item of business on the agendas of State legislatures and the electorates during 1970. A total of 42 States reported such action covering constitutional provisions ranging from single issues of local applicability to complete revisions. When a complete revision of the constitution is offered to the voters, 1970 experience indicates it has a better chance of approval if the controversial issues are submitted as separate options rather than as an entire new basic charter on a "take-it-or-leave-it" basis.

The track record in the area of fundamental governmental change is promising but further action is essential. Sixteen States still operate under constitutions drafted 100 years ago, or even earlier. The creative partnership between Federal, State, and local governments in responding effectively to old and new social, economic, and developmental needs in urban and rural America can only flounder unless antiquated State constitutional provisions are revised.

Six States submitted wholesale constitutional revisions to their electorates in 1970 — three were approved and three failed of passage. **Arkansas** voters defeated, by a three to two margin, a totally new constitution drafted by a 1969 Constitutional Convention and presented as a single option on a "take it or leave it" basis. Three States — **Illinois**, **North Carolina** and **Virginia** — approved new constitutions and adopted other important constitutional provisions presented as separate options. In two States — **Idaho** and **Oregon** — new constitutions were rejected even though other revisions submitted as separate options were approved.

The score was somewhat better with the "piecemeal" amendatory process. In 34 States, legislatures proposed 222 amendments of general applicability of which 130 were approved. Some of these amendments had far-reaching, progressive impact on governmental structure and fiscal machinery. Four amendments adopted in **Colorado**, for example, include provisions for extending home rule to local government, creation of a State merit system, and intergovernmental cooperative arrangements. **North Carolina**, in addition to approving a general editorial revision, approved amendments which revise the limits on State and local taxing power and permit local governments to create new urban area service taxes vital for efforts to consolidate city and county governments.

**Maryland**, the scene of a total defeat of a new constitution in 1968, adopted eight of ten general

amendments in 1970, including an alternative process for counties to avail themselves of charter home rule, increased flexibility for making organizational changes in the executive branch of government, and important changes in State court structure.

Using the "piecemeal" approach, voters in four other States — **Connecticut**, **Indiana**, **Missouri**, and **Nebraska** approved changes providing for either annual sessions or the possibility of more frequent sessions of the State legislature. Moreover, **Virginia's** and **Illinois'** new constitutions also provide for annual sessions. Three-fourths of the State legislatures across the country now will meet each year.

On the other hand, 92 proposed constitutional amendments of general applicability failed of passage at the polls. And in **Louisiana**, all 31 proposed amendments covering local issues were rejected by the voters.

The point, of course, is that the rejection of individual or component constitutional amendments can stimulate, within a year or so, new efforts to make needed changes. Rejections of a total constitutional revision, offered as a single option on a "take it or leave it" basis, can be devastating and represent a long-term defeat of the forces for modernization and change.

Developments on the constitutional front in 1970 indicate that action for change will continue apace. Ten States solicited preliminary voter approval of plans for constitutional revision, in terms of calling a convention, creating a constitutional study commission, or taking similar action. In seven of these States, voters took affirmative action.

On November 3, **Alaska**, **Montana**, and **Tennessee** affirmed the calling of a convention. In **Alaska**, the issue squeaked through with a plurality of less than 1 percent. The upcoming convention in Tennessee will be limited to the questions of property taxation. **Kansas** approved a measure that establishes guidelines for holding a constitutional convention. **Louisiana** and **Ohio** legislatures created special commissions to begin revision of their constitutions.

In **Iowa** and **Maryland**, where the issue of whether to call a constitutional convention is automatically placed on the ballot every ten and 20 years, respectively, the issue was rejected. In addition, the **South Dakota** electorate defeated a proposal to permit a broader amendatory process. In contrasting positive action, **Utah's** electorate authorized its legislature to submit revisions of substantial portions of the constitution as a single amendment.





