

# **Regional Financing of Regional Services**

***CITIZENS RESEARCH COUNCIL OF MICHIGAN***

1526 David Stott Building  
Detroit, Michigan 48226

834 Michigan National Tower  
Lansing, Michigan 48933

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CITIZENS RESEARCH COUNCIL  
OF MICHIGAN

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Robert E. Pickup,  
*Executive Director*

LETTER OF TRANSMITTAL

1526 David Stott Building  
Detroit, Michigan 48226  
Area Code 313-961-5377

April, 1970

Mr. Kent Mathewson, President  
Metropolitan Fund, Incorporated  
211 West Fort Street  
Detroit, Michigan 48226

Dear Kent

In 1968 the Metropolitan Fund, Incorporated, requested the Citizens Research Council to undertake a comprehensive study in the field of regional finance. The purpose of the study was to identify, describe and analyze the more significant alternative methods which were being utilized in the United States and Canada to finance regional services on a regional basis, and to evaluate the potential of these methods for the regional financing of regional services in Southeast Michigan. The principal thrust of the study was to be directed toward multi-county programs, rather than those involving only a single county or part of a county (such as the Municipality of Metropolitan Toronto). However particularly significant instances of financing sub-regional programs might be included. The study was not intended to include instances of regional financing of local services (i.e., a regional-level tax to provide funds for local governments), nor was it to consider the financing of regional planning or educational activities. The study was not designed to develop specific recommendations as to services which should be performed on a regional basis in Southeast Michigan or as to methods of regional financing which should be utilized in this area.

The study now has been completed and the report thereon is submitted herewith. Because of the extreme importance to a successful financing program of the type of organizational structure utilized to provide regional services, considerable attention has been paid to this problem. The independent regional agency in particular is examined in some detail, as are attempts now being made in the United States and Canada to develop regional governments.

The significant alternative methods of financing regional functions have been examined in depth. Included are sections on the user or service charge, general taxation, bond issues, assistance from local governments in the region, state government assistance to regional districts and Federal aid. A short chapter deals with the special financing problems faced in establishing a new regional service, while a final chapter discusses specific regional problems relating to Southeast Michigan.

CITIZENS RESEARCH COUNCIL OF MICHIGAN

Mr. Kent Mathewson—2  
April, 1970

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Sincerely

/S/ Robert E. Pickup

Executive Director

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## REGIONAL FINANCING OF REGIONAL SERVICES

### SUMMARY

One specialist in the field of state and local government finance has set forth three basic requirements which he believes must be met if a program of a public agency is to be successful. These elements would appear particularly applicable to regional service projects. They are:

1. The project must be governmentally viable. This means that the agency undertaking the program must have both the power and the competence to plan, construct and operate it in a sound manner.
2. The project must be technically sound. It must be designed and built to the highest possible standards, and must to the maximum feasible extent be adaptable to possible future changes in needs.
3. The project must be fiscally viable. There must be firm assurance of revenues adequate to meet normal costs encountered in a project, including debt service on bonds issued to pay for capital construction, expenses incurred in operating the facility, and costs of maintaining and periodically replacing and renewing the physical plant.

Of these three requirements perhaps the easiest to meet is that of technical soundness. In most cases planning and engineering skills can be obtained to solve even the most complex problems. Achieving governmental viability is, of course, much more difficult, particularly in multi-county regional areas. The method of financing regional services often is influenced by the form of governmental organization utilized in an area.

### FURNISHING SERVICES TO A REGION

Until relatively recently the provision of basic public services in America and Canada has been the responsibility of long-established local governmental agencies such as counties, townships and cities. In recent decades, however, conditions have developed in certain regional areas which have made it difficult for existing units to provide necessary services. This has been particularly true in metropolitan regions, where swift population growth has spilled across city and county boundary lines and thus often far outdistanced the ability of any single local government to supply a service need. Occasionally also in a non-urban region a need must be met or a problem solved on a multi-

jurisdictional basis.

Over the years several solutions have been proposed to the problem of how best to provide services in a multi-county area. The small communities and unincorporated sections, it has been suggested, could contract for the purchase of services from a major city or county located in the area. The various local governmental units might jointly construct and operate a service facility. A general regional government with broad powers to deal with area problems might be established. The state government possibly could directly provide services in a region. Or, a special agency might be created to provide one or more badly-needed services in an area.

The methods described above have been used in varying degrees to provide regional services throughout the United States and Canada. Despite favorable enabling legislation found in many states, only in an infrequent instance do the numerous governmental jurisdictions in a regional area cooperate to establish and operate a jointly-owned facility. The purchase of services from a major governmental unit occurs somewhat more frequently, although often on a sub-regional basis. General regional governments are only now beginning to make their appearance in one or two areas. State governments usually have been quite reluctant to furnish to a specific regional area a service considered local in nature, although this attitude is beginning to change in a few states in the eastern part of America. By far the most frequently utilized method to solve the problem has been the creation of an independent special regional agency whose sole responsibility it is to furnish one or more services to the regional area.

### The Independent Regional Agency

The creation of special agencies to provide necessary public services on a regional multi-county basis is not a completely new development on the American scene.

#### A Brief History

As early as 1889 a predecessor agency of the Metropolitan District Commission of the Boston Area was created by the Massachusetts legislature to deal with water pollution problems then becoming acute in that region. The Metropolitan Sanitary District of Greater Chicago was established in the same year to fill a similar need. Other early regional agencies include the Port of Portland, Oregon, the Palisades Interstate Park Commission of New York and New Jersey and the Miami Conservancy District of west-central Ohio.

In the years following World War I a number of additional regional agencies were established throughout the nation. Among the best known are the Washington Suburban Sanitary Commission, formed in 1918 to furnish water, sewage treatment and

certain related services for two Maryland counties adjacent to the District of Columbia; the Port of New York Authority, which since 1921 has provided a broad range of transportation-related services for the New York City regional area; and the Metropolitan Water District of Southern California, created in 1928 to provide a means of solving critical water shortage problems in that region.

The massive rush to suburbia following World War II has produced problems (especially in the water pollution field) which required the creation of additional regional agencies. The Metropolitan St. Louis Sewer District is an example of these. The trend toward the formation of regional units has continued in recent years, with some emphasis on the field of regional transportation. Agencies such as the Bay Area Rapid Transit District and the Southeastern Pennsylvania Transportation Authority are examples. Other regional agencies are active in such areas as hospitals, public health, parks and recreation, public power, mosquito abatement, libraries, flood control, stadia and sports arenas, irrigation, bridges and tunnels and waste disposal. In regulatory areas a few regional programs have been instituted, primarily to more effectively control air pollution. Little or no progress has been made in the development of regional programs in the social service field, except for a few public housing agencies which have been established on a multi-county basis.

### Structure and Legal Foundation

The basic purpose of a regional service agency is to perform a vitally necessary public function in a service area whose boundaries are generally co-extensive with the scope of the problem. Other important reasons for the creation of such agencies are that a regional, multi-county district, in providing services, may to a degree enjoy economies of scale, may be able (due to the extensive area served) to draw upon very extensive tax and other resources to aid it in dealing with major challenges, and may have—or speedily be able to develop—unusual expertise to bring to bear on difficult problems. The regional agency also is better qualified than small local jurisdictions to make decisions relative to services affecting development of a broad area.

**Single vs. Multi-purpose Districts.** The great majority of regional service agencies are single-purpose districts. A minority are multipurpose in nature, but many of these carry on activities limited to one general field—such as the Port of New York Authority, whose numerous functions primarily are transportation-oriented.

Considerable criticism has been directed against the general policy of establishing a separate agency to perform each service function required in a regional area. It is alleged that the existence of such single-purpose districts often results in disjointed, unplanned approaches to the solution of regional problems, increases costs, fragments fiscal resources, adds to citizen confusion about government, and makes difficult citizen control of regional agencies. Supporters of the single-purpose district on the other

hand claim that it permits a single administrative structure within the agency, enables the unit to devote its full attention to a single program (thus helping pinpoint responsibility), and, if the agency has taxing powers, makes possible the drawing of tax district boundaries closely related to the areas served.

In discussing possible solutions to the problem of the proliferation of single-purpose districts, a brief examination of recently-enacted legislation relating to regional services should be made. In Oregon two new acts are of interest. One authorizes creation of a single-purpose mass transit district in any standard metropolitan statistical area in the state on resolution of the governing body of the most populous city in the area. A second act provides for establishment of a multi-purpose agency within each of the same areas on adoption of a resolution or filing of a petition and upon approval of the area's voters. When such a multi-functional agency is established it may take over the functions of the transit district. The Oregon legislation thus provides for the handling of an emergency-type situation through quick creation of a single-purpose district, but for the ultimate consolidation of services in a regional area into a multi-functional unit.

Colorado in certain newly-enacted legislation, has taken an approach somewhat similar to that of Oregon. Two special purpose districts were created in the Denver regional area, one to deal with drainage and flood control and the other to develop a mass transportation system. In addition, the legislature submitted for voter consideration in 1970 a proposed constitutional amendment which would permit the formation of multi-functional regional service authorities by referendum in the territory to be served. Presumably the general purpose authority once established could assume the functions of single-purpose agencies located in its territory.

In Virginia the legislature in 1968 authorized the creation throughout the state of regional planning districts which would develop plans for general purpose service districts to be submitted to the voters of each region for approval. Once the initial plan was adopted other services could be added by voter approval.

The above examples indicate development of a definite trend toward use of the multi-purpose agency to provide regional services. Legislative concern over overlapping taxes and debt and the desire for a better-integrated regional public financial structure may well have been important factors in this trend.

**Creation of Regional Agencies.** In practically all instances the power to establish regional service agencies lies in the state legislature. This body has the power generally to establish procedures for agency organization, delimit the areas in which an agency can operate, provide for type and method of selection of the unit's governing board, enumerate the services the agency may provide and authorize the imposition of taxes and user charges.

A few regional agencies have been created through interstate compact by two or more states. Examples of these are the Fort of New York Authority, the Delaware River Port Authority and the Washington, D. C. Metropolitan Area Transit Authority. Bi-state agencies offer an effective means of dealing with problems of a regional area which extend over more than one state—an increasingly common occurrence in recent years. However, such agencies may at times encounter problems in the financing area, since the two or more sponsoring states may have differing views on the fiscal support needed.

A number of regional districts have been created through special legislative acts. one of the advantages of this method is that the organization and powers of the regional unit can be tailored specifically to the needs of an area. The majority of regional service agencies, however, have been established under general enabling statutes enacted by state legislatures. Such statutes normally provide a quite detailed procedure for the creation of an agency and frequently requires that a referendum on establishment of the district be held in the area affected. One particularly troublesome problem which often arises in the creation of regional agencies is the establishment of proper boundaries. Too constricted a boundary may necessitate frequent annexations, while too broad a service area can create other problems.

Responsiveness of Agencies to the Citizen. Since general governments at the regional level are virtually non-existent in America at the present time the question of how the citizen in a region can exercise a degree of control over policies and programs of independent special districts is an important one. The extent of such control varies widely from one agency to another.

In a very few instances the governing board of the regional agency is directly elected by voters in the service area. Examples are the Metropolitan Sanitation District of Greater Chicago plus the East Bay Regional Park and East Bay Municipal Utility Districts of the San Francisco Bay regional area. The new legislative acts of various states authorizing multi-purpose regional agencies have shown a modest trend toward providing for direct election of board members.

In the great majority of service districts the members of the governing board are not directly elected by the voters. In some instances agency board members consist of incumbent elected officials of the various municipal and county governments located in the regional area. In a somewhat larger number of cases, however, these elected officials are given the authority to name other citizens to the agency board. In the case of the Southeastern Michigan Transportation Authority six of its nine members will be appointed by the Southeast Michigan Council of Governments beginning in 1971. Occasionally appointments to the board are made by one or more judicial officers of the area. In a fair number of instances the governor of the state in which the agency is wholly or partially located appoints all or some of the members of the unit's governing

body. Gubernatorial appointment is the almost universal rule if the agency is bi-state in nature.

Those who support the selection of regional agency board members by methods other than direct election justify their position on a number of grounds. They assert that service on agency boards by officials of local jurisdictions helps promote regional-local cooperation. Many claim that appointment of private citizens to such boards makes it possible to secure appointees of unusually high caliber. They question whether direct election of service district board members is feasible since the existence of several boards in an area might well result in a multiplicity of elections and subsequent voter confusion.

Critics of appointed boards, on the other hand, seriously question whether in view of the increase in number of regional units and the substantial powers given to them selection of their governing boards should be on any basis other than direct election. They point out that local elected officials serving on regional agency governing bodies may fail to represent a regional point of view. They feel that the appointment of private citizens to agency boards results in vitally important decisions being made by persons with no responsibility whatever to the citizens of an area. They suggest that the problem of multiple elections could be eliminated by consolidation of single-purpose regional units into a multi-purpose agency.

Creation of an elected regional government having general authority over all area-wide units might well be a sound solution to the problem of effective citizen control over independent regional bodies.

**Annexation by Regional Agencies.** As potential service areas expand due to population growth regional service districts occasionally are faced with the need to annex additional areas. This is not necessary in all cases, since the area-wide unit may have authority to operate extraterritorially. In a few instances an agency may engage in functional rather than territorial annexation—for example, when a multi-functional unit absorbs the activities of a single-purpose agency. Procedures for annexation vary greatly from state-to-state and from district-to-district. Following a successful annexation quite complex problems may arise relative to the imposition of special charges in the newly-annexed area to equitably spread the cost of capital improvements.

**The Regional Agency and Inter-governmental Coordination.** There obviously is great need for regional service districts to coordinate their plans and programs with those of other governmental agencies-including other regional units. In some respects quite satisfactory cooperation has been achieved between regional agencies and local governments in recent years, particularly on lower-level technical matters. However, in

many instances coordination between regional agencies and other governmental jurisdictions is weak. At the regional level itself there is lacking in almost every instance a central agency which can develop a broad-scale program encompassing all area-wide services and coordinate and control its financing and execution. Relatively informal methods of coordination—such as through regional planning commissions or citizen advisory boards—have been of little value to date. More positive approaches to the problem clearly are needed.

### Efforts to Achieve Regional Government

In view of the massive population growth and general development in multi-county metropolitan areas, plus the proliferation of regional service agencies, it might be expected that numerous regional governments would have been instituted in the United States and Canada by this time. Such has not been the case. However, in an occasional instance a regional government—or its near equivalent, a regional coordinating agency—has been established. In numerous other cases voluntary regional councils of government have been formed. These approaches require careful examination to determine their value.

#### Limited Regional Government—The Coordinating Council

In America the closest approach to a multi-county regional government which has been achieved up to the present time is found in the Minneapolis-St. Paul region, where the Twin Cities Area Metropolitan Council has been established by special legislative act. This agency has been given authority to plan for and in a general way coordinate the development of the regional area, and in a few instances now has the power to exercise considerable direct control over specific regional service functions. The Twin Cities Council has a governing board appointed by the Governor of Minnesota from specific districts in the region (except for the chairman, who is appointed at large). In order to finance its program the Council may levy a property tax throughout the entire seven-county regional area.

The Twin Cities Metropolitan Council is far more than a voluntary regional council of governments. It is a permanent regional structure which in no way is dependent on the whim of local jurisdictions for its continuation. Its governing body is independent of local government ties, and thus can be truly regional in outlook. It has mandatory tax support and thus is not dependent on voluntary contributions from other units. Nonetheless, at present, since its governing body is appointed rather than elected, and since its major emphasis still is on planning controls rather than on program effectuation, it would have to be regarded more as a regional coordinating agency than as a regional government. However, proposals have been made to directly elect the Council's

governing body, make dependent under it all agencies performing area-wide services, and substantially widen the scope of its taxing and fiscal authority. Should these steps be taken the Council may well become a true regional government, with power to act in areas of regional concern, which would co-exist with present county and local political jurisdictions.

Efforts also have been made in the San Francisco Bay area, where many regional single-purpose service agencies presently exist, to develop some form of limited purpose regional government. One proposal calls for an organization with a 36-member governing board, elected from districts, which would have broad planning powers plus authority to effectuate its plans in certain program areas. Another proposal calls for adoption of a type of regional home rule agency, with a governing board primarily made up of representatives of local jurisdictions, which also would function in certain program areas. To date neither approach has been adopted.

### Regional Governments in Ontario

Two new regional governments recently have been established in the Province of Ontario, Canada. These are the Ottawa-Carleton Regional Municipality and the Regional Municipality of Niagara. Like the Twin Cities Council those agencies were established directly by legislative enactment, without a local referendum. The Niagara Regional Municipality encompasses a two-county area, and replaces the old county governments. However, local governments continue to exist, and carry on municipal-type activities. The regional government performs area-wide functions in such fields as water, sewerage, highways, planning, health and welfare. It levies a tax for regional government purposes and issues bonds for itself and for all local jurisdictions. The governing body of the new Niagara agency is partly composed of elected officials of local jurisdictions and partly of persons directly elected by the voters. The Ottawa-Carleton Regional Municipality has powers similar to those of the Niagara agency; however, its governing body is composed entirely of elected officials of local municipalities.

### Councils of Government

The numerous regional councils of government now springing up across the nation cannot be considered regional governments. Such agencies are cooperative voluntary organizations, which perform certain planning functions, promote joint arrangements among and between communities, and generally foster intergovernmental cooperation. The voluntary nature of their membership would make it difficult for such an agency to be granted major regional policy-making authority since large segments of the regional area could be unrepresented. In addition, regional councils of government must rely

on contributions of member agencies or gifts and grants for their financing—they lack mandatory tax support. Since their governing boards consist of representatives of local governments there exists some danger of non-regional points of view taking precedence. A few regional councils are performing an occasional service-related function on a regional basis—such as a police training academy. However, participation in such functions is completely voluntary. It would appear that a major change must take place in the structure of regional councils of government if they are to control, manage and operate major regional programs.

### Metropolitan Governments

Several so-called metropolitan governments now have made their appearance in the United States and Canada. These basically have been either the one-tier type (in which the metropolitan government replaces all local governments), or the two-tier variety (in which the metropolitan government assumes functions which can be performed on a broad scale, leaving to local municipalities the responsibility for local-type activities). Nashville-Davidson County is an example of the first type; the Municipality of Metropolitan Toronto an example of the second. However, these metropolitan governments are confined to the boundaries of a single county or less, and thus are not true regional governments.

### Other Regional Service Programs

A few state governments now have begun to directly perform services in certain regional areas, principally in the transportation field. Thus the Province of Ontario provides rail rapid transit service in an area extending from forty miles west to twenty miles east of Toronto. The states of New York and Connecticut recently entered into a compact to underwrite the cost of a similar type of service. In neither of these cases does any local jurisdiction aid in underwriting the cost.

## FINANCING REGIONAL SERVICES

The greatest challenge faced by the typical agency in providing a regional service is the development of a sound financing program. Since regional agencies in most instances are special units, somewhat outside the governmental mainstream, they do not enjoy the broad taxing authority usually granted municipal and county governments by state constitutions or statutes. Each regional agency, therefore, normally develops a highly individualized financing plan to undertake a project. This has resulted in the utilization of a broad range of financing methods by the various regional agencies throughout

the country.

Brief comment should be made of the traditional division of functions performed by regional agencies into proprietary and governmental. In earlier years proprietary functions of a unit of government—such as the provision of water or electric power—were presumed to be entirely self-supporting, while governmental activities—schools, welfare, etc.—were normally funded by general taxation. Today this time honored breakdown is fast ending, and so also are traditional concepts of how each type of function should be financed. Such a service as mass transit has become so intertwined with everyday needs that it has become difficult to specifically categorize it. Studies of regional agencies across the nation show that factors other than the historical governmental proprietary breakdown determine financing techniques used.

### The User Charge as a Financing Method

User or service charges—such as the fare exacted from each passenger on a bus, or the bill paid by a householder for water consumed—have been the traditional means of financing much of the cost of providing regional services. There has been a trend toward somewhat less dependence on such charges by the typical agency in recent years, especially with respect to functions which produce broadly-based benefits. However, in most instances the service charge still is vitally important.

The basic rationale behind user charges is that the person receiving a specific benefit from a service beyond that enjoyed by others should pay the cost. Other arguments advanced to support user charges are that through their utilization scarce tax resources can be conserved for the financing of governmental functions which cannot possibly pay their own way, and that such a financing method helps insure that service facilities will be developed only when the demand warrants it. User charges also are generally confined to areas where the service provided can be more or less exactly measured.

User charge financing appears completely fair at first sight, since its basic rationale is that the person who receives a special benefit beyond that enjoyed by other citizens pays the cost. There may well be times, however, where social utility requires that a service or facility be supported at least partly by other governmental revenues as well. For example, it may be necessary to devote general tax dollars to development of a mass transit system which could not possibly be constructed and operated by user charge financing alone.

It also should be noted that even in instances where operating expenses incurred in providing a service ultimately can be fully met by user charges, supplemental financing sources may be required to underwrite initial capital expenditures, or augment operating revenues during the start-up period. Thus the large Metropolitan Water District of Southern California, in order to fund heavy initial capital expenditures involved in

bringing water in from a distant source, found it necessary to issue general obligation bonds and levy property taxes to pay debt service charges thereon.

### Agencies Utilizing Service Charges

The bridge and tunnel district is an example of the occasional regional agency which relies almost completely on user or service charges for its financing. This is possible primarily because such districts enjoy a monopoly position—persons wishing to travel from one area to another must use the service. An example of such an agency is the Golden Gate Bridge and Highway District in the San Francisco regional area.

Over the years mass transportation agencies have relied heavily on fares charged passengers to underwrite costs. However, out of some 20 presently existing or proposed area-wide transportation agencies examined during the course of this study, not a single one today is totally self-supporting with respect to both capital costs and operating expenses. In addition to user charges each also relies, or proposes to rely, on Federal and state aid, voluntary or mandatory contributions from local jurisdictions in its service area, property or other taxes, or support from another service facility earning surplus revenues. Agencies which are constructing expensive new capital facilities particularly tend to require supplements to farebox revenue. In addition, though, even authorities which are operating the more conventional rubber-tired vehicles on public streets—such as the Bi-State Development Agency in the St. Louis Regional Area—also have found it difficult to be completely self-sustaining. It should be noted that two highly successful special districts—the Port of New York Authority and the Delaware River Port Authority—are examples of agencies utilizing funds from other successful operations to help underwrite capital and operating costs of transit facilities.

In the field of sewage collection and treatment there was found to be substantial reliance by practically all agencies studied on user or service charges, normally based on volume of sewage delivered. In some instances the regional agency billed the household directly, while in other cases it charged each participating municipality a fee geared to total volume of effluent received (the municipality then in turn passed the cost on to its residents through service charges or taxes). However, even though sewage treatment is a service whose use by residents in a regional area is basically mandatory, the various sewage agencies often received supplemental financial assistance from a variety of sources. Thus the Metropolitan Denver Sewage Disposal District was given the authority during an initial construction period to levy an ad valorem tax on all property within its district. The Metropolitan St. Louis Sewer District supplements user charges with ad valorem property taxes and special benefit assessments. The Municipality of Metropolitan Seattle may assess any deficit incurred against the participating jurisdictions in proportion to assessed valuation. In one or two districts—such as the Metropolitan Sanitary District of Greater Chicago—no service charge is assessed and

general taxation alone is relied on to pay all costs.

Regional water districts follow a pattern somewhat similar to sewage agencies in financing their operations with reliance on both user charges and other sources of funds. The Washington Suburban Sanitary Commission finances operating costs of its water system plus debt service on bonds issued to pay for major system capital facilities through user charges. Capital improvements of a more modest nature are financed through front-foot benefit charges. The agency, since it has available ad valorem taxing authority to back up its bonds, is able to issue general obligation debt instruments.

Regional airport agencies meet the bulk of their operating expenses through user charges levied principally against airlines and other private organizations utilizing airport facilities or space. A few jurisdictions are experimenting with a service charge on each passenger enplaning from the airport (the legality of such a charge is undergoing court tests at present). Regional airports rely on other sources—primarily Federal and state grants—for their major capital expenditures, however. Airport agencies may expect to face particularly severe financing problems in the future if major new facilities are required to handle the coming generation of jet airplanes.

Port authorities rely to a heavy extent on user charges to underwrite their costs, but a fair proportion also enjoy some form of taxing authority or have the power to certify deficits to participating local jurisdictions. The user charge plays only a small role in meeting budgetary needs of such regional agencies as park districts and libraries. Stadium and coliseum authorities almost always require some means of supplementing income from user charges to help meet operating and capital expenses.

The special assessment, as has been earlier noted, is used by an occasional regional agency as a means of financing capital improvements. Usually this is done to keep ad valorem property taxes or user charges at a reasonable level, or to make possible construction of improvements which are critically needed but cannot be financed through bond issues due to overall debt limitations.

The problem of the use to be made of surplus service charge revenue enjoyed by a few agencies is an important and complex one. One or two examples already have been noted of regional agencies using such funds to finance the cost of other regional services which are necessary but which perhaps cannot pay their own way. In some instances this goal is not easily achieved. The governing board of the regional authority may prefer to see the surplus held to meet possible future contingencies, or used to develop a facility which will shortly become self-supporting, regardless of its other merits. The basic problem here appears to be largely one of devising means of making each regional agency properly responsive to the wishes of the regional residents.

## General Taxation

Principally due to the limitations of the user charge as a sole means of financing necessary regional services, states at present are tending to grant regional agencies some degree of general taxing authority within the boundaries of the district served. Power to levy property and, more recently, non-property taxes has been granted regional units in a moderate number of instances. Some state governments simply levy the tax in the service area and direct that the proceeds go to the agency. The theoretical justification usually given for such a grant of taxing power is that the regional area as a whole enjoys broad benefits from the service rendered.

There exists, of course (as has been mentioned earlier), the serious question of whether an agency not normally directly responsible to the voters should enjoy general taxing authority. Principally for this reason, perhaps, any grant of taxing power to a regional service district usually has been quite carefully hedged with restrictions. The tax may be limited to a specific millage rate, or to some other exact levy on a taxable item (such as a per unit tax on households). The regional agency may be required to obtain voter approval prior to imposing a tax. Use of a tax levy may be restricted to debt service purposes only, or its imposition may be limited to a start-up period. In an occasional instance the tax may be levied only until a certain sum has been obtained.

## Property and Non-Property Taxes

The ad valorem property tax has the merit of being straightforward in application and a proven revenue producer. It can have the disadvantage of helping produce a very high overall millage rate if used by several service districts plus the traditional local units of government in a single regional area. If assessment ratios vary in each of the several counties making up a regional service district an equalization factor may have to be applied to insure fair treatment.

Perhaps partly because of concern over high property tax rates the authority to levy a number of types of non-property taxes now has been granted various regional agencies. Proceeds from a one-half cent sales tax levied within the service area go to the Bay Area Rapid Transit District, while the Twin Cities Area Metropolitan Transit Commission receives the income from a wheelage tax imposed on each auto registered in the district. The newly-created Tri-County Metropolitan Transportation District in the Portland, Oregon, regional area has imposed a one-half percent tax on employer payrolls to help fund its program. Beginning in 1971 Washington, D.C., metropolitan agencies and cities will have authority to levy for transit program use a one percent

excise tax on motor vehicles owned by residents in their jurisdictions, which then will be offset against the total state excise tax on such vehicles. However, the authority to impose certain types of non-property taxes—such as a levy on personal incomes—rarely is granted regional districts.

### Utilization of Taxes by Regional Agencies

There are several types of regional agencies which rely to a greater or lesser extent on general taxation to help meet their fiscal needs. First, there is the regional unit, often newly-established, which is constructing an enormously expensive capital facility requiring financing. An example of this is the previously-mentioned Bay Area Rapid Transit District, whose billion-dollar-plus capital program is largely financed through general obligations bonds the debt service on which is met through ad valorem property taxes. A second type of unit requiring tax support is the agency providing a service for which user charges normally are not levied to any important extent. This may include agencies such as park and recreation districts and libraries. It also might encompass districts performing such regulatory functions as air pollution control. Thus the Huron-Clinton Metropolitan Authority in the Detroit region and the East Bay Regional Park District in the San Francisco Bay area both enjoy limited power to levy (or obtain the proceeds from) ad valorem property taxes. The North Central Regional Library in the state of Washington may levy a two-mill tax in its rural service area to support its program.

Still another type of regional district needing tax support is the unit which might well price itself out of the market if it attempted to pass on to the user the total cost of its program. Usually this type of agency operates in the field of public transportation. A fourth variety of unit utilizing general taxation is one which normally could fund through service charges the entire cost of its operation, but chooses not to do so on the ground that the total area benefits from the service rendered. Districts utilizing general taxation because of this rationale include those furnishing irrigation and conservation, water supply and sewage treatment services.

### Bond Financing

A substantial proportion of regional agencies must construct very costly capital facilities in order to successfully carry out their programs. Thus public power districts construct generating plants and transmission lines and mass transit agencies lay down costly track and purchase rolling stock—to cite but two examples. Only infrequently can districts finance such capital projects from current revenues, accumulated reserves, or gifts and grants. Usually general obligation or revenue bonds must be issued to fund such costs. The importance of bond issues as a method of capital financing can be

appreciated by noting that one port authority had over a billion dollars in outstanding indebtedness in 1969, a mass transit agency over three-quarters of a billion, and numerous other agencies amounts ranging from thirty to one hundred fifty million. On the other hand a small number of units mostly air pollution and library districts—had no indebtedness at all.

### Types of Bonds and Their Use

A substantial majority of regional agencies have the legal authority to incur long-term indebtedness through the issuance of bonds. Not all units can issue general obligation bonds—many are given authority to utilize revenue bonds only (some may issue both).

General obligation bonds place behind the promise to repay the debt the so-called full faith and credit of the agency involved. Actually, this almost invariably means that the district has the power to levy *al valorem* property taxes without limit as to rate or amount until the sum owed is paid. In most cases this will provide sufficient security to make the bonds marketable. If not some stronger unit of government may have to guarantee the obligation, or even itself issue the bonds.

Revenue bonds differ from the general obligation variety in that normally the only source to which the bondholder can look for repayment is the money earned by the facility constructed from bond proceeds. This may be adequate in the case of a well-established agency which is planning to utilize the bond funds to provide a much-desired public service with excellent earnings potential. However, relatively few regional services can achieve this goal, at least not immediately. Thus in many cases methods must be found to strengthen revenue bonds if the security is to be marketed at a reasonable rate of interest—or in some cases even sold at all.

Various methods have been used to strengthen revenue bond issues of regional agencies. The agency might pool the earnings from the new facility with those from a seasoned operation for debt service purposes (this could be accomplished through a consolidated bond issue, with debt service payable from the combined revenues of all operations). Another method is the guarantee by a strong governmental unit of debt service payments on the bonds. While many municipal and county governments appear too hard pressed financially to do this, it occasionally is accomplished. Thus the City of Philadelphia through a lease and leaseback technique in effect guaranteed bonds issued by the Southeastern Pennsylvania Transportation Authority to acquire certain transportation facilities. On the state level the State of New York has guaranteed a very large issue of bonds used to purchase commuter cars for rail rapid transit

service in the New York City region. A third method of strengthening revenue bond issues is by granting to a regional unit back-up general taxing power to supplement the facility earnings from which debt service normally is paid. Such supplemental taxing power, even if seldom or never used, will nonetheless improve saleability of a bond issue and usually reduce the interest rate which must be paid.

### Restrictions on Issuance of Bonds

The power of regional agencies to issue bonds is restricted in numerous ways. In many instances—particularly when general obligations bonds are involved—voter approval to issue bonds must be obtained. In some cases an extraordinary majority of the voters—sixty per cent or more—must approve bond issues. Another factor limiting the ability of regional districts to issue debt instruments is legislation found in many states imposing a ceiling on the interest rate which may be paid on money borrowed. If money is tight many agencies may not be able to market bonds within the legal maximum. A major limitation on an agency's power to issue bonds (particularly of the general obligation variety) is one found in state statutes and even constitutions restricting the total amount of indebtedness which may be incurred by a unit. Normally this is done by limiting maximum allowable indebtedness to a fixed percentage of total assessed valuation of real property in the district. The allowable percentage often runs from five to fifteen. In general it should be noted that this restriction has not had an unduly severe effect on the ability of many agencies to issue bonds. The Bay Area Rapid Transit District, for example, has general obligation indebtedness of \$792 million presently outstanding.

Despite the continued growth of regional agencies and other special districts which together could create a substantial debt burden for a regional area, there has been little or no effort to date to impose overlapping debt limitations on governmental units in a specific area. If this were done it could create severe problems, since the most recently established unit could find its bonding capacity highly restricted even though its needs were vitally important.

### Centralizing the Issuance of Bonds

Since the typical regional agency occupies a somewhat anomalous position in the structure of state and local government, the question has been raised from time to time as to whether some more well-established unit might market its bonds. Local governments, such as cities and counties, do not appear well equipped to handle such a function, for regional districts, although a few do. The state government appears much better qualified to perform such an activity. It usually can be expected to have a stronger credit rating than most regional units, and thus (assuming it fully guarantees the

bond issue) should be able to obtain lower interest rates and more favorable repayment terms. However, some problems might arise. The state, since its credit would be involved, might well wish to rather carefully supervise fiscal and other policies of the regional unit. Not all agencies could be expected to welcome such control.

No truly regional agency exists in America at present with the authority to issue bonds for all regional and other special districts in the area. The Metropolitan Council of the Twin Cities Area, described earlier, does issue bonds for the sewer agency serving the region. The principal advance in this field, however, has taken place in Canada, where the Municipality of Metropolitan Toronto controls the amount of debt contracted and issues debentures (bonds) for itself and for all local governments and semi-autonomous agencies within its jurisdiction. All such issues are direct, joint and several obligations of the Metropolitan Municipality and the local jurisdictions. This procedure clearly strengthens the ability of local units to obtain financing for their capital projects, and undoubtedly enables the securing of favorable interest rates. In spite of certain qualifying factors this technique deserves careful examination as a possible model for use by any regional government which might be established in America.

#### Assistance From Governments in the Region

The local jurisdictions, such as cities and counties, located in the area served by a regional agency usually are vitally interested in seeing that it performs its functions adequately. Consequently, if the regional unit appears under-financed there has been a definite tendency in recent years for local jurisdictions to provide (usually voluntarily but on occasion involuntarily) a substantial degree of assistance. This may take the form of direct financial aid, indirect aid (such as bond guarantees), the supplying of free services, or the provision of capital facilities for use by the regional unit.

#### Mandatory Assistance

One form of aid to regional units from local jurisdictions is basically mandatory in nature, and constitutes little more than a charge for services furnished. This occurs when an area-wide unit, after having utilized all other sources of revenue to meet expenses, may assess any remaining deficit against local governments in its service district. An example of this is found in the Boston region, where the Massachusetts Bay Transportation Authority charges to the various communities in its service area any ultimate deficit incurred in providing certain types of service. A somewhat similar method is used by the Long Island Railroad (now a New York State agency) which assesses against cities and counties in its area a levy for station maintenance and operation. In instances where local communities are strapped financially such charges may constitute a substantial burden.

## Voluntary Assistance

A second form of aid by local jurisdictions to regional units is purely voluntary in nature. By far the greatest concentration of such assistance is found in the area of public transportation, and consists of aid for both capital improvements and operating costs of various units. Thus the City of New York—itsself hard-pressed financially—has aided the New York City Transit Authority by underwriting the cost of the Transit police force. The Southeastern Pennsylvania Transportation Authority receives assistance in several forms from cities and counties within its service area. The City of Chicago has expended substantial sums of money in constructing transit lines and purchasing rolling stock for the Chicago Transit Authority. The Kansas City Area Transportation Authority received substantial aid from cities and counties in its service district toward meeting the cost of acquiring private transit lines. The City of Cleveland and Cuyahoga County developed parking lots and erected bridge structures to serve the Cleveland Transit System's new rapid line to the airport. In the Washington D. C. regional area the local jurisdictions which will be served by the Washington Metropolitan Area Transit Authority are aiding the Authority's capital program by making grants and, through long-term service contracts, are undertaking to pay an allocated share of any operating deficit.

In other fields of activity local assistance to regional units has been of lesser significance, but occasionally is worthy of notice. County governments in several states grant aid to regional air pollution agencies. A few regional airport authorities receive assistance from member cities or counties, usually to help underwrite capital improvements. Los Angeles County has advanced funds to enable the County Sanitation Districts of Los Angeles County to acquire sanitary landfill sites.

An interesting question which occasionally arises is whether a regional agency which takes over capital facilities formerly belonging to a local jurisdiction should indemnify the local unit for its equity. In Canada the Municipality of Metropolitan Toronto on assuming as part of the metropolitan system local waterworks or sewer facilities was not required to grant compensation therefor (it did, however, assume outstanding facility indebtedness). The Twin Cities Metropolitan Council and the Municipality of Metropolitan Seattle, on the other hand, either granted special credit or paid for such facilities.

## Assistance From State Governments

An important trend in recent years in the field of regional affairs has been the considerable increase in financial aid granted by state governments to area-wide service agencies. This assistance has taken a number of forms and has been given both for capital improvements and—more recently—for operating expenses. Use of general state funds to assist programs restricted to one or two regional districts obviously might be subject

to a degree of criticism. However, breakdowns or near breakdowns in key services such as public transportation or sewage treatment in urban-oriented regional areas could result in such serious consequences that states have been compelled to take action.

### Types of State Assistance

In view of the critical nature of the public transportation problem in many regions it is understandable that a fairly broad variety of state programs to assist area-wide transit agencies have been developed. The State of Massachusetts now allocates the bulk of the proceeds of a two-cent portion of the statewide cigarette tax to the Massachusetts Bay Transportation Authority to help pay debt charges and fund certain service costs. New York State makes grants from its huge billion dollar mass transportation bond issue to regional transit agencies to assist in paying for capital improvements. The State of New Jersey grants operating subsidies to commuter railroads in exchange for performance of certain services at specified fare levels, and also purchases transit equipment for use on such railroads. The State of California's Toll Bridge Authority has constructed a trans-bay tube under San Francisco Bay for the Bay Area Rapid Transit District. The State of Pennsylvania makes both capital and operating grants to regional transportation agencies throughout the state. In Ontario the provincial (state) government aids rapid transit agencies by paying a substantial proportion of the construction cost of the transit tube. The rationale for such grants is that the need for construction of new highways is thereby reduced. Illinois follows a somewhat similar approach, permitting local jurisdictions to use a portion of state gas tax funds to aid public transportation programs.

In other fields also state governments have assisted in funding regional programs. A number of states have aided area sewage agencies in meeting the cost of constructing capital facilities, and a few states even help defray operating expenses of such districts. Assistance also occasionally is given in the areas of water supply and flood control. Both Maryland and Pennsylvania aid in underwriting budgets of regional port districts, while Louisiana has assumed all costs of a major bridge authority.

Regional airports receive state aid for capital improvements, but seldom for operating costs. Nearly all regional libraries receive state grants. In several states area-wide air pollution agencies are awarded state assistance. In one jurisdiction—Puerto Rico—a subsidy is given a water resources authority to help underwrite the cost of surplus capacity which will be needed in future years.

## Future of State Aid

Increasing requests are being heard in numerous jurisdictions for greater state financial help in solving regional problems. Thus in effect state assistance is becoming an important alternative—or at least a key supplement—to local funding of area-wide programs. This aid often is welcomed in a regional area, but the supervision and control which inevitably accompanies it may not be. An effective government at the regional level, armed with adequate taxing authority, may be a viable alternative.

## Federal Aid

A substantial number of Federal assistance programs now are being utilized by regional agencies. In some respects such programs have had certain limitations—they almost always are limited to aid for capital facilities, they require large amounts of local matching funds, and when awarded on a year-to-year basis make long-term planning of capital programs difficult. In spite of these restrictions, however, Federal aid has played an important role in the development of numerous vital regional-level programs.

## Varieties of Federal Assistance

Regional transportation agencies across the nation have received substantial Federal grants to aid in capital construction and in the purchase of rolling stock. The Massachusetts Bay Transportation Authority received major Federal aid in constructing an important transit line extension, and a large share of the funding for Chicago's new expressway transit lines came from Federal mass transit grants. In the sewage treatment field practically every regional agency has received grants to help construct capital facilities. Federal aid has been given to water, irrigation and flood control districts. Airport authorities have received major Federal grants for capital construction. In a few instances—notably in the areas of air pollution control and library services—Federal aid for operating purposes has been awarded.

## Summing Up Federal Aid

Unquestionably certain Federal assistance programs will be expanded in future years, particularly in areas dealing with environmental pollution. Still to be determined, however, is whether such aid will be available on a major scale to help underwrite operating costs as opposed to capital improvements. In addition, agencies would be well advised to be realistic in planning budgets, and recognize that since increased Federal aid may well be accompanied by a parallel upswing in demand the amount available per program might not expand to the full extent anticipated.

## Failures in Financing Programs For Regional Services

Up to the present regional agencies have enjoyed a considerable degree of success in organizing and financing service programs. On occasions, however, there have been failures. Some difficulties may be traced to defects in organization, the primary one being the failure to include within the agency's boundaries the total problem area. Other problems are fiscal in nature, including the failure of a regional unit to obtain public support of a financing program for a proposed new service. Such setbacks in recent years have occurred primarily in the field of public transportation. Both the Southern California Rapid Transit District and the Metropolitan Atlanta Rapid Transit Authority, for example, recently have had major financing proposals for new rapid transit systems reject by the electorate. Various reasons have been advanced for the unwillingness of the public to approve such fiscal proposals. To an extent the timing of the bond referendum, a weak public relations effort by the agency and the opposition of pressure groups may well have been important factors. In many cases, however, it appears that the voters simply decided that the need for the new program was not sufficient to warrant the tax burden required to support it.

Occasionally also a long-established regional agency encounters difficulty in continuing to fund its programs. In cases where the service is tax-supported new taxing sources may be needed. If the function is paid for by user charges, the agency should make certain that its service charges over the years fairly reflect the total cost of the operation, including the maintenance of reserves for equipment replacement. In that way it often can avoid crisis situations involving deterioration of service and consequent loss of customers.

## FINANCING THE NEW REGIONAL SERVICE

Since the number of services being provided on a regional multi-county basis across the nation is steadily increasing, a brief survey of the methods which might be utilized to finance new area-wide programs should be of value.

### Financing for the Newly-Created Agency

Numerous factors—some fairly complex—must of course be taken into account in developing a financing program for a new regional agency. In establishing general guidelines, however, it can be stated that only under quite unusual circumstances should a newly-created agency expect to successfully finance all aspects of its program from user charges. Normally this will be possible only when the regional unit operates a highly-essential monopoly (and even then it may require fiscal aid in its initial stages of activity). In the great majority of instances some supplement to service-charge revenue will be required. This may take the form of the gift of a capital facility by another governmental unit; capital or operating grants by a state or even a local government; authority to levy an area-wide tax or share in an existing state tax; or authority to assess deficits against local jurisdictions in the service area.

Each of the several methods of supplementing service charge revenue described above has advantages and disadvantages. General taxing authority, or the right to share proceeds of an existing state-level tax, obviously are techniques which could result in substantial funds becoming available on a continuing basis to a regional agency (such taxing powers are vital if the area unit must itself fund a major capital program). A “piggyback” tax—a percentage or other addition to an existing levy—has the additional merit of ease of collection. However, some caution should be exercised by legislatures in grants of taxing power to regional bodies. If the unit has a non-elected governing body it should be made certain that such a delegation of taxing power will not be invalidated for this reason. Authority to levy a tax already heavily relied on as a revenue source by other jurisdictions in the regional area could cause problems. In addition, the new tax should not be one subject to possible invalidation because of conflict with constitutional provisions limiting rate of tax to be levied or restricting use of tax proceeds to specified purposes.

The other financing methods described also have deficiencies. Assessment of operating deficits to local jurisdictions in the regional agency’s service area can produce sharp resentment on the part of such governments. In addition, if a very large number of communities exist in the region served, the development of an assessment technique which fairly takes into account the many factors involved becomes almost impossible. Voluntary grants from large jurisdictions in the service area or from the state government, while often welcome, usually are too insecure a revenue source for a regional unit to depend on.

## Financing Programs for Established Units

The well-established regional agency, if on a sound fiscal footing, will have less difficulty in financing a new service from user charges than will a newly-created unit. Such an agency normally will have a sound credit rating, and experience in handling fiscal problems. If it has taxing authority, or is carrying on services which produce surplus earnings, it should be particularly well-fitted to assume a new function.

## State Financing Aid for Regional Services

If a state government decides to provide assistance in financing a regional service it can of course follow one of two approaches. The state can choose to carry on the function itself, or it can grant assistance, either one-time or continuing, to aid a regional agency. Whichever route is taken a considerable fiscal commitment will be required. In many cases the state government may be able to fund a single capital grant from its current resources. A major continuing program of assistance, however, might require the establishment of additional revenue sources to provide the necessary money.

In view of the problems which have arisen in various areas with respect to state aid for regional programs, the typical state government would be well advised to clearly spell out at the beginning of any program the exact nature of its commitment. It also should make certain that the regional unit assisted has adequate ability, through the imposition of taxes or the levying of user charges, to finance the local share of the cost.

## EXERCISING CONTROL OVER REGIONAL SERVICES

The trend toward provision of services on a regional basis now has been underway in America and Canada for some years, and shows every sign of continuing in the future. This development, however, while beneficial in many ways, has produced certain serious problems with respect to the extent of public control of the independent regional agency's policies and programs. In the years ahead such questions as the following must be answered: how can voters of a region exercise reasonable control over the independent district's programs, operations and fiscal policies; what methods can be utilized to compel regional units to operate efficiently; how can duplication of services by units be avoided; how can long-range plans of autonomous service districts be coordinated and controlled; and how can regional districts be required to undertake badly needed new programs, must be answered in the years ahead.

There are several possible approaches to the general problem of insuring effective public control of regional service units and their programs. The state government might, perhaps through a special office, coordinate and supervise the various service agencies and the functions performed by them in a regional area. A formal regional government could be established, with a governing body directly elected by the voters. Such a government could either directly provide services to the region or control those agencies which did. All independent service units in a region could be amalgamated into a single multi-purpose authority, with a governing board directly responsible to the citizens of the area. The several counties constituting the region could be merged, with the enlarged county perhaps given additional authority to perform services. A regional coordinating council, with a governing body elected by the area's voters, could be created. This body could develop a planning framework for regional level functions, coordinate all aspects of individual service agency programs, and probably exercise financial control over all such units. Or, a voluntary regional council of governments might to a degree exercise some coordination of regional agency programs, perhaps on a more informal basis.

The methods adopted to make possible adequate public control of regional service programs undoubtedly will vary greatly from one area to another, depending on a number of factors. Clearly each of the alternatives suggested has advantages and disadvantages. One advantage of the consolidated county and the regional coordinating council is that control by the local voter can be preserved and yet the creation of a whole new layer of government avoided. In summing up, the important thing is that as regional services and agencies proliferate a coordinating mechanism which best fits the total structure of the region be adopted.

## FINANCING OF REGIONAL SERVICES IN SOUTHEASTERN MICHIGAN

The six-county Southeast Michigan metropolitan region contains four and three-quarter million people, eighty percent of whom live in some 113 cities and villages. In view of the vast size of this area it is understandable that few services are provided on a full region-wide basis. Only a public transportation authority has been established on an overall six-county scale, and as yet it is not actually providing service. A park district and a water and sewer agency (the latter actually a department of the City of Detroit) serve considerable proportions of the region, with a library system and a hospital authority operating in somewhat smaller areas. Practically all other service functions are sub-regional in nature. Methods used to finance the area-wide functions mentioned include ad valorem real property taxes, direct user charges, appropriations from or assessments against local jurisdictions, purchase of services and state or federal grants. Revenue bonds are primarily relied upon for borrowing.

## Constitutional and Statutory Authority for Provision of Services in Southeast Michigan

Several sections of the Michigan Constitution plus certain statutes enacted pursuant thereto offer methods which to a degree may be utilized to provide regional-level services in Southeast Michigan. Article VII, Section 27 authorizes the legislature to establish both single and multi-purpose metropolitan authorities, and also to create additional forms of government in metropolitan areas. Up to the present, however, the legislature has taken only limited advantage of these provisions. Single-purpose authorities in a number of fields (hospitals, transportation, etc.) have been authorized, but multifunctional agencies may be created only under the provisions of an outdated and unduly complex statute. No legislation authorizing full-fledged regional governments has been enacted to date. Article VII, Section 28 grants to the legislature the authority to enact legislation permitting various local governments to jointly exercise any functions or powers which each would have the power to perform separately, transfer functions to one another, and lend their credit to each other or to a common undertaking. The legislature has moved quite aggressively in this area, and has enacted several statutes authorizing many of the inter-governmental activities mentioned above. In Southeast Michigan substantial use has been made of inter-governmental agreements to provide or receive services in such areas as water, sewer and libraries. Joint service agreements have been utilized in such areas as police training, refuse disposal and mutual firefighting assistance. Most of these, however, are sub-regional.

Article VII, Section 13 provides for consolidation of two or more counties, while Article VII, Section 2 authorizes county home rule. To date no two Southeast Michigan counties have merged, nor has any home rule charter county been established.

### Analysis of Legal Authority to Provide Regional Services

Each of the legally available methods under which regional-level services may be provided in Michigan has certain advantages and disadvantages. The intergovernmental agreement, as previously noted, has been used extensively, primarily by smaller communities to purchase services from larger ones. Such contracts for the purchase of services usually can be quickly negotiated and have the advantage of not creating a new level of government. On the other hand they do result in the purchaser community having little or no voice in policy and fiscal decisions relative to the service. Also, due to the vast number of communities existing in Southeast Michigan service agreements often would be difficult to achieve on a truly regional scale. Somewhat similar comments might be made relative to several communities joining together to obtain services through creation of a special agency.

Merger of several counties appears at first glance to provide a means through which services could be provided to the region without establishment of a new level of government. However, approval of voters for multi-county mergers would not be easy to obtain, and the present county home rule legislation in Michigan would make it difficult to transfer municipal-level functions to the new charter county. A new regional government for the Southeast Michigan area with a governing body directly elected by the voters, would offer many advantages in providing area-wide services. So also would a multi-functional regional level authority, also with a directly-elected governing board, in which could be centralized all area-wide services. However, new state legislation would be required to enable creation of such a special regional government or authority. Finally, the State of Michigan apparently has the power to directly provide certain services in Southeast Michigan.

### Financing of Services and Possible Restrictions Thereon

Regional agencies in Michigan would appear to have adequate authority (when authorized to do so by enabling legislation) to establish a broad range of service or user fees. If proper justification existed these even could vary within the region.

In the area of taxation, imposition of taxes by a regional unit would be governed by a number of somewhat complex constitutional provisions and legal rules. Obviously any power of a regional agency to levy a tax would have to be granted by the legislature. Any ad valorem property tax levied would have to be uniform throughout the regional taxing area, and any non-property tax uniform on the class or classes on which it operated. Despite some earlier confusion it now appears that a regional authority created by general law could be granted ad valorem property taxing power outside the so-called 15-mill limitation.

With the present Michigan sales tax at the maximum level authorized by the Constitution, there exists a serious question as to whether a regional unit could be authorized to impose any type of tax which might reasonably be construed as a levy on sales of retailers. The legislature presumably could authorize a regional district to levy a tax on personal and other income.

The state government generally could appropriate funds or make grants to regional agencies. The sharing of at least some state-level taxes with regional bodies does not appear to be prohibited by the Constitution. A regional authority, when authorized to do so, apparently may assess a budget deficit against member local jurisdictions in proportion to assessed valuation.

The question of whether bonds of a regional district may be guaranteed by the state or by local governments is an important one. In general the state apparently cannot lend its credit to metropolitan governments or authorities. The Constitution is not clear on

whether the state may lend its credit to joint undertakings of two or more counties or cities. Cities clearly can lend their credit to joint undertakings of which they are a part, but it is not clear whether they can lend their credit to independent regional authorities.

In conclusion, it should be stated that the law relative to those sections of the 1963 Michigan Constitution which deal with regional and metropolitan programs and their financing undoubtedly will require further court interpretation in the years ahead. Caution must therefore be exercised in assuming that a particular method of financing a program is or is not feasible.



## CHAPTER I

### FURNISHING SERVICES TO A REGION

In America and in neighboring Canada the provision of most basic public services normally has been a function of a long-established local governmental agency. In early days the county and the township, and in more recent history the city, usually have been relied on by the citizens of a local area to furnish essential services of a public nature. Since the provision of such services undoubtedly was the primary function of a local government, and since the area requiring the service normally was within the boundaries of the jurisdiction furnishing it, this reliance was readily understandable.

From time to time conditions have developed, however, which have made it difficult if not impossible to rely on an existing basic unit of local government to provide a necessary service. This usually has occurred when one of the two following developments has taken place:

- a. The instance where a large number of people, urban-oriented in nature and desiring many urban-type services, have settled in a broad regional area surrounding a good-sized central city. This heavy population movement has resulted in the need often arising in such an area for the provision on a regional basis of certain services (or, with increasing frequency in recent years, various regulatory controls) usually considered the responsibility of a local government. Since the urbanized region frequently encompasses several counties or parts of counties, and is not coterminous with any local governmental unit (it even may cross state boundaries in some instances), there generally exists no agency which as a matter of course can be looked to for the provision of the necessary services on the broad scale required.
- b. The case where a specific problem has arisen or a need has developed in a large area which is not primarily urban in orientation. The problem in earlier years often involved a detrimental natural condition—lack of water for human consumption or for agriculture, flooding, etc. More recently it has been concerned with human needs—such as the desire of the inhabitants in a sparsely settled area for adequate library or health services, or for electrical energy.

Because of the enormous development of the urbanized region in recent decades its problems have assumed far greater importance than those of the typical area with a small-city or rural orientation. Consequently, while non-metropolitan agencies will not be entirely overlooked, the principal emphasis of this report will be on the urban-metropolitan district. It should be noted, however, that metropolitan area-oriented regional districts may and often do extend out to encompass rural sections as well.

Over the years a number of solutions have been proposed to the problem of how best to provide services for a regional, multi-county area. The more important proposals have been these:

- a. The small communities and unincorporated areas, it has been suggested, could contract with the major governmental unit in the region for the purchase of services. This of course in many instances would involve willingness and ability of the large unit to make major improvements to, and extensions of, capital facilities to meet the broad regional need. It should be mentioned that such a proposed solution would have quite limited applicability in a non-urban area where no large central city (or urbanized county) existed, or even in an urban area if no unit of government had heretofore been providing the service.
- b. The various local governmental jurisdictions might agree to jointly construct and operate a service facility which met the needs of the overall area. This normally could be done, of course, only in those states having some form of joint exercise of powers legislation authorizing such cooperative effort by local governments.
- c. A new general regional government, having broad powers to deal with area problems, might be established. Such a government could be superimposed on existing local governments (which would continue to retain their individual identities), or it might replace all or some of the local units (through some form of governmental consolidation, perhaps even involving several county governments). The new regional government could be established by legislative fiat or through locally-initiated action.
- d. The state (or in Canada the provincial) government could provide one or more necessary services in a region. In an occasional instance two or more states (or even two nations!) might jointly act to provide a regional service. Such services might merely supplement existing local programs, or could replace them completely.
- e. A special agency might be established for the specific purpose of providing one or more badly needed services in the regional area. Such an agency could be formed by special act of the state legislature (perhaps hand-tailored to meet requirements of a specific regional area) or by local initiative under the provisions of general enabling legislation.

The five methods above described are used in varying degrees throughout America and Canada to provide regional-level services. An examination of the extent to which each has been found feasible, together with the advantages and disadvantages of each, should be made at the present time.

The purchase of services by small governmental units in a region from a large central city or county does occur with some degree of frequency in America (more often on a sub-regional rather than on a full regional basis, however). This is particularly true in such fields as library services, water supply, sewage treatment, and, to a lesser extent, in public health. However, as previously has been noted, the large governmental unit supplying the service often must expand its capital facilities substantially to provide the extra required capacity, and its voters have not always been willing to approve the large bond issues usually required for such a purpose. Furthermore, it has not been easy, in some instances, to develop an equitable method of charging suburban areas for the cost of the service furnished. In addition, many central cities have sought to condition the extension of services on the willingness of adjacent areas to consent to annexation. This requirement often has proved unacceptable to the outlying districts, thus restricting the use of such a method of providing services.

Despite quite favorable enabling legislation in a number of states only in a relatively few instances have governments in a regional area cooperated in the development and operation of a jointly-owned facility. Usually such joint ventures have been in the areas of sewage treatment, library services and airports. The administrative problems involved (such as the governing bodies of each participating jurisdiction having to meet together periodically to make determinations relative to the joint project), plus the ever-present difficulty of apportionment of costs, have led most communities to the conclusion that an operation run directly by several governments is somewhat unwieldy.

True regional governments literally are unknown in America at the present time, although an area-wide coordinating council now exists in embryonic stage in one state. In Canada at least one province has been much more bold in its approach. Ontario now has two multi-county regional governments in full operation. These units were established by the provincial parliament (state legislature) following detailed studies (plus extensive local consultation) in the regions involved.

Until recently there has been little inclination on the part of state governments to supply to specific regional areas from state-wide resources services generally considered local in nature. States usually have considered the provision of such services purely a local concern. However, with the near-breakdown of certain vital services in many regional areas surrounding metropolitan centers and containing vast populations, some state governments are being compelled to revise their thinking, and directly (or through some specially-created agency) initiate or supplement local services. This has been particularly true in the mass transportation field.

The methods described above all have been used occasionally to provide services to a regional area. Up to the present time, however, the method by far the most frequently utilized to solve the problem has been the creation of a special agency whose sole responsibility it is to furnish one or more necessary services to the overall region. A unit of this type normally has a number of the attributes of a conventional governmen-

tal body, such as the right to own property, sue or be sued, make contracts, hire employees, etc. Such an agency may well have ties with local governments in the region—or with the state government—but nonetheless exists as an independent entity.<sup>1</sup> These special units play a vitally important role in regional affairs, and a careful examination of their structure and functions must therefore be undertaken.

#### A. The Independent Regional Agency—A Brief History

The creation of independent special agencies to provide necessary public services on a regional, multi-county basis is not a new development on the American scene. As early as 1889 a predecessor agency of the Metropolitan District Commission of the Boston area was created by special act of the Massachusetts legislature to deal with water pollution problems then becoming acute in that region. The sub-regional Metropolitan Sanitary District of Greater Chicago was established in the same year to fill a similar need. The Port of Portland (Oregon) was created in 1891 to dredge and keep navigable a river channel to the ocean. In 1900 the Palisades Interstate Park Commission was organized jointly by the states of New York and New Jersey primarily to provide park and recreation facilities for the New York City regional area. Following a disastrous inundation the Miami (Ohio) Conservancy District was established in 1915 for the purpose of carrying out major flood control measures throughout a watershed area.

In the years following World War I a number of additional regional agencies were established throughout the nation. Among the best known are the Washington Suburban Sanitary Commission, formed in 1918 to furnish water, sewage treatment and certain related services for two Maryland counties (Montgomery and Prince George's) adjacent to the District of Columbia; the Port of New York Authority, which since 1921 has provided a broad variety of transportation-related services for the New York City regional area; the East Bay Municipal Utility District, established in 1923 to furnish water (and subsequently sewage treatment) for expanding communities on the east side of San Francisco Bay; and the Metropolitan Water District of Southern California, created in 1928 to provide a means for solving critical water shortage problems in a number of large counties (both urban and rural in nature) in that area.

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<sup>1</sup> In one or two cases regional authorities lean so heavily on state governments for fiscal assistance that they have many of the earmarks of a so-called dependent agency. However, in practically every instance their boundaries encompass a well-defined regional area, and at the very least they depend on the area served for part of their budgetary requirements through some form of user charge. They thus can be considered at least semi-independent in nature. An example of such a unit is the Metropolitan Transportation Authority in the New York City regional area.

As might be expected, the massive rush to suburbia following World War II soon brought into being additional regional-level problems—particularly in the water pollution field—which necessitated the creation of new service agencies. An example of these is the Metropolitan St. Louis Sewer District. In the past few years the trend toward establishment of independent regional districts has continued, with a considerable number of the more recently-created agencies formed to develop area-wide transportation programs. Examples include the Bay Area Rapid Transit District, the Washington Metropolitan Area Transit Authority and the Southeastern Pennsylvania Transportation Authority. Other regional agencies provide such services as hospital care (Fulton-DeKalb Hospital Authority in the Atlanta region); public health (Tri-County District Health Department in the Denver area); parks and recreation (Huron-Clinton Metropolitan Authority in the Detroit region and the Maryland-National Capital Park and Planning Commission in the Washington, D. C. area); public power (Sacramento Municipal Utility District); mosquito abatement (Sacramento County-Yolo County Mosquito Abatement District); library services (Pioneer Library System in the Rochester, New York regional area); flood control (Central and Southern Florida Flood Control District); stadia and sports arenas (Louisiana Stadium and Exposition Commission); bridges and tunnels (Chesapeake Bay Bridge and Tunnel District); and waste disposal (Gulf Coast, Texas, Waste Disposal Authority).

In the regulatory field a modest number of programs on the regional level now have been instituted. Several agencies have been established in recent years to enforce air pollution control standards on a regional basis (the San Francisco Bay Air Pollution Control District is an example). In the area of water pollution control an agency in the New York City regional area (Interstate Sanitation Commission) monitors the operation of sewage treatment plants to insure satisfactory performance. While no regional, multi-county police operating agency appears to exist at the present time, a police training academy has been established in one regional area (by the North Central Texas Council of Governments) and a multi-county police investigative group in another (the Kansas City Area “Metro Squad”—which, however, is an informally organized joint effort by participating law enforcement agencies rather than an independent agency).

In the social service field little progress has been made toward the development of programs at a regional level. While numerous private welfare agencies have been established on a multi-county basis no similar public agency is known to exist at the present. In one or two states housing agencies supplying low-rent public housing have been established on a multi-county basis.

In most instances regional service agencies perform services not otherwise offered in the overall area. However, in an occasional case such an agency may furnish a service which supplements one similar in nature supplied by a local jurisdiction. This occurs most often in the fields of library and public health services, and also occasionally in

public transportation. The existence of a locally-performed service on occasion could have some detrimental effect on the financing of a similar service at the area-wide level, since the jurisdiction performing the service might well question the justification for support of both.

## B. Structure and Legal Foundation of The Independent Regional Service Agency

The basic purpose of an independent regional agency is to perform a vitally necessary public function (or functions) in an operational area whose boundaries are coextensive (at least to a substantial degree) with the territory requiring the specific service (or services) or the solution of a problem. Other reasons of some importance for the creation of such agencies are that a regional multi-county district, in providing services, may to some extent enjoy economies of scale, may be able (due to the extensive area served) to draw upon very substantial tax and other resources for financial support (thus making the district far more capable than smaller governmental jurisdictions of dealing with major challenges), and may have—or speedily be able to develop—unusual expertise to bring to bear in the solution of difficult problems. A regional agency also is far better qualified than small local jurisdictions to make decisions concerning services which may have an important impact on overall development of a broad area.

### Single and Multi-Purpose Districts

The majority of regional service agencies are single-purpose districts. A minority are multi-purpose in nature, but in a number of instances even these carry on activities limited to one general field—such as the Port of New York Authority, whose widespread functions primarily are related to transportation.

The policy of establishing a separate agency to carry on each function to be performed in a regional area has been subjected to considerable criticism. It frequently has been charged, for example, that the existence of numerous overlapping single-purpose special districts in a regional area often results in a disjointed, unplanned approach to the solution of area-wide problems, may well increase costs, probably fragments fiscal resources, clearly adds to citizen confusion about local government, and helps make any type of effective citizen control of independent regional agencies most difficult. Perhaps the principal arguments cited in favor of establishment of the single-purpose district are that it permits a relatively simple administrative structure within the agency, enables the unit to devote its full attention to the development and management of a single program (thus allowing to some extent the fixing of responsibility), and, if the agency has general taxing powers, permits the drawing of tax district boundaries which closely relate to areas served or benefited (not always easy to accomplish in a multipurpose agency).

The responsibility for creation of the large number of single-purpose districts across America probably can be assessed equally against regional areas and state governments. In many instances the desire of an area to see immediate progress made in the solution of a vexatious problem has resulted in an appeal by an influential group or groups for the swift creation of a specific agency for such a purpose, with little consid-

eration given to the possibility of assigning the proposed new function to an existing unit. Perhaps also the local jurisdictions in the area in some cases were not anxious to see a regional agency become too powerful through the assumption of multi-functional responsibilities. Legislatures, in responding to the area's request for action, frequently showed little desire to carefully consider the possible long-term consequences of the creation of a multiplicity of single-purpose units. They too perhaps did not wish to create large and vigorous regional agencies. It must be noted that in an occasional instance new units were requested—and created—even though enabling legislation permitted existing agencies to undertake functions of the type assigned to the new unit.

### New Legislation

In view of the criticisms mentioned above, certain legislation relating to regional services, which has been enacted in several states during recent months should be briefly examined. In Oregon, two new acts are of decided interest. One authorizes the creation of a single-purpose regional-agency—a mass transit district—within any standard metropolitan statistical area in the state, on adoption of a specified resolution by the governing body of the most populous city in the area (which resolution is subject to possible referendum as provided by general law). This act thus establishes a highly expeditious method of creating an agency designed to deal with a single important regional problem. A second act authorizes the establishment of a multi-purpose district to provide initially a number of specific services within any standard metropolitan statistical area in the state, on the adoption of a proper resolution or filing of a petition and upon the approval of the voters of the regional area. The voters of the district, at a subsequent referendum, may authorize the multi-purpose district to assume additional functions. Not more than one such district may be established in a metropolitan area under this act. When such a metropolitan multi-purpose service district is created it may take over all functions of a previously-established mass transit district. The Oregon legislation thus appears to have provided for the handling of an emergency situation through creation of a special-purpose district, but for the consolidation of all services in a regional area into a single multi-functional unit once the voters have chosen this approach.

In the state of Colorado two new single-purpose service districts in the Denver regional area recently were established by special legislative acts. One district was created to deal with drainage and flood control problems; the other to develop a mass transportation system. The boundaries of the two districts, it should be noted, were dissimilar (the drainage district undoubtedly encompassed a watershed area, while the transportation district presumably had its boundaries defined to a substantial degree by population concentration). In addition, the Colorado legislature submitted for state-wide voter consideration in 1970 a proposed constitutional amendment, which would allow the formation of regional service authorities upon approval of the voters in the territory to

be included. An authority (subject to a legislative designation of activities which might be undertaken) could plan for and operate such functions as were approved by the voters of the regional area. Presumably such a general-purpose service authority might assume the functions of the aforementioned drainage and transit districts or those of similar agencies located partially or entirely within its territory.

The Virginia legislature in 1968 also authorized the establishment of regional general-purpose service districts throughout the state upon approval of a service district plan by the voters. The plan for the service district (to be developed by a predecessor planning district) was to assure that the services to be initially provided would be of sufficient number and importance to produce a meaningful governmental unit and program, and further was to provide the framework for the eventual performance by the district of all regional-type services. After the initial plan was adopted additional services could be added by approval of the voters.

The above examples—plus somewhat similar legislation enacted or proposed in other states—clearly indicate a significant trend toward greater use of the broad-based, multi-purpose regional agency. The 1963 Michigan Constitution, for example, authorizes establishment by the legislature of multi-functional metropolitan districts. The single-purpose district still is of great importance; but legislative bodies obviously are beginning to view consolidation of region-wide services in a single unit as desirable and in some cases necessary. Concern about overlapping taxes and overlapping debt, and the desire to achieve a better-integrated regional public financial structure may well have been important factors in this trend.

### Creation of Regional Agencies

Except in the unusual instance where a specific provision in a state constitution directly authorizes the establishment of a regional district, the power to initiate the process leading to creation of regional service agencies lies in the state legislature. This is true even if a section in a state constitution generally provides for regional agencies, since normally the legislature must implement this before it can be utilized. The legislative body, then, has the power generally to delimit the territorial areas in which a regional service agency may operate, establish procedures for agency organization, provide for type and method of selection of the agency's governing body, enumerate the specific services which the agency may render, authorize the imposition of user charges and taxes and the issuance of bonds, and define methods for expansion and even dissolution of the service agency.

Interstate Compact. With respect to method of creation, a relatively small number of regional agencies whose areas of operation encompass more than one state have been established by interstate compact. Examples of these are the Port of New York Authority (New York and New Jersey), the Delaware Port Authority (Pennsylvania and New

Jersey), the Bi-State Development Agency of the Missouri-Illinois Metropolitan District, the Kansas City Area Transportation Authority (Missouri and Kansas) and the Washington Metropolitan Area Transit Authority (District of Columbia, Maryland and Virginia). The creation of bi-state agencies clearly is desirable from a functional standpoint for dealing effectively with the problems of a regional area which extends over more than one state. In other respects, however, difficulties may arise. One potentially troublesome area is that of financing, since the two or more supporting states may well have sharply divergent views on the type of fiscal support needed to permit a bi-state agency to carry on a sound program.

**Special Legislation.** A number of regional service agencies have been created through special legislative acts. Obviously, there are certain advantages to this method—it may be relatively speedy, and the form and powers of the agency can be tailored specifically to the requirements of a single area. Usually—but not always—some method is provided in the special act for an expression by the people in the proposed service area or by their elected representatives as to whether or not they wish to join the district (in some instances the legislation places the burden on the local community to disassociate itself from the district).

**General Legislation.** The majority of regional service agencies have been established under general enabling legislation enacted by state legislatures. Under provisions of these acts in almost every instance the initiative to form a regional service agency must be taken by a local government or its citizens. Usually the governing body of the principal city or county located within the boundaries of a potential district will, on its own initiative or in response to a petition presented by a specified number of citizens, enact a resolution of intent to create an agency encompassing certain areas. Public hearings then normally are held to permit explanation and discussion of the proposal (in some states—for example, Ohio—such hearings may be held by a court of law, which often has certain powers to amend the original proposal). In some instances a state agency's approval may be required. A referendum then usually is held either at-large in the entire area proposed to be incorporated in the district or separately in each individual jurisdiction tentatively included therein (occasionally authority to approve or disapprove is exercised by the governing body of each individual jurisdiction). Approval (or disapproval) in cases where an at-large referendum has been held is clear-cut; however, complications may well arise in the case where approval or disapproval is by individual jurisdictions. The deletion from the district of vital jurisdictions may make it difficult for the new agency to render effective area-wide service.

The method to be utilized in the state of Virginia wherein planning districts are first set up in a regional area to develop a detailed plan for a subsequent service district (mentioned in a previous paragraph) appears to offer a quite effective means of insuring that the regional service district will initiate and carry out a sound program. The service district plan must include proposed district boundaries, a list of services and functions to be performed, methods of financing and terms of agreements to be entered into

between the service agency and the political subdivisions in the district. The excellence of this general approach, however, is somewhat mitigated by the requirement that the overall service district plan be approved by voters in each individual political subdivision within the proposed district before it can be declared created.

District Boundaries. A brief general comment on the proper size of a regional service district is perhaps appropriate at this time. In establishing the boundaries of a district it obviously is important to make every effort to include areas in which intensive development, with a consequent demand for services, can be expected to take place in the foreseeable future. This will eliminate or diminish the need for frequent annexations of territory, often quite difficult to accomplish. On the other hand there are definite dangers in creating a very large district to solve a service problem principally confined to a much smaller area, especially if a broad-based tax is to be relied on to finance much of the program. Obviously citizens living in the area not urgently requiring service will strongly resent having to help finance a program offering them little tangible benefit.<sup>2</sup> Conversely it is possible that because of the great overall size of the district the principal thrust of the program may be shifted away from the place of greatest need, thus not achieving its key goal.

#### Responsiveness of Regional Agencies to the Citizen

One of the principal criticisms levied at the independent regional service district is its alleged lack of responsiveness to citizen control. Agencies of this type, it often has been charged, frequently are quite remote from the public, not adequately subject to voter regulation, and in general dominated by a small group of arbitrarily selected board members and an appointed administrative-technical staff. The policy of giving such agencies relatively complete freedom to establish service and other policies which may vitally affect the region, to prepare budgets, and in some instances even to levy taxes, has been seriously questioned.<sup>3</sup>

Establishment of Agency. In determining the accuracy and fairness of these charges it is necessary to examine a number of factors. First of all, it should be noted that citizens

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<sup>2</sup> A differential tax rate, if legally possible, may help solve this aspect of the problem.

<sup>3</sup> When a central city supplies services to other parts of a regional area by contract a similar problem of representation of course arises. In many instances the units of government purchasing the service have no representation on the board of the central city agency supplying the utility, and thus no voice in establishment of rates, service policies, development of capital programs, etc.

of a regional area generally can only indirectly assert influence during the important period when the framework of the regional agency is being created. Almost never is the structure of such an agency developed through the drafting of a home rule charter by locally-elected representatives, as often is done in the establishment of city governments. Instead, as previously has been noted, the principal responsibility for outlining the general format of a regional agency rests in the state legislature,<sup>4</sup> with responsibility for details plus decisions on optional features usually reposing in the governing bodies of local jurisdictions. Only infrequently do citizens of an area play a significant role in even the local aspects of regional agency formation (however, as previously was mentioned, they usually have the power to reject a proposed district if a referendum is held).

**Selection of Governing Body.** The method of selection of the governing body of the regional service agency is, of course, vitally important in determining the degree of effective voter control over the policies and programs of the unit. In only a relatively few agencies is the governing board elected directly by the voters of the regional area. Examples are the sub-regional Metropolitan Sanitation District of Greater Chicago (all nine members of the board elected at-large), and the East Bay Regional Park District and East Bay Municipal Utility District in the San Francisco Bay regional area (board members of these two agencies are elected from wards in their regions). In certain of the new legislative acts of various states providing for multiple-purpose regional agencies there is a mild trend toward either permitting direct election of a majority of board members (Virginia) or at least authorizing the voters of the regional area to change from an appointive procedure to some other method of selection following a start-up period (Oregon).

In the great majority of regional service districts (particularly those in metropolitan areas) the members of the governing board are not directly elected by the voters. In a number of these agencies board members are incumbent elected officials (members of the legislative body or the chief executive officer) of the governments of the various municipalities and counties which together make up the service district. An example of such an agency is the Municipality of Metropolitan Seattle, whose governing council, with two exceptions, is composed of elected officials of member jurisdictions. In such instances some observers feel that voters can exert at least a modest degree of influence on the affairs of the regional agency. Others, however, question this, noting that at election time the local official who also serves on an agency board runs as a candidate for his basic city or county position, and any evaluation of his performance is usually based solely on his record in the latter post.

In many instances the elected officials of the jurisdictions within the boundaries of the regional district have authority to name citizens (who usually hold no public office) to the agency board. Thus the cities and counties located in the region served by the Bay

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<sup>4</sup> If the agency is established by special act the legislature, of course, determines its entire structure.

Area Rapid Transit District appoint its twelve-member board of directors. In other cases the appointment is made not by the elected chief executives or governing bodies of the local jurisdictions but by one or more judicial officers of the area (usually a judge or judges of a court of general jurisdiction, but occasionally even by a judge of a specialized court, such as probate). An example of an agency whose governing board is named by the judiciary is the Muskingum Watershed Conservancy District (Ohio). The justification most frequently given for appointment by the judiciary is that it takes politics out of the selection process. Clearly the selection by either of the above described methods of private citizens to serve on a regional agency board reduces to an insignificant level the degree of direct influence the voters of a regional area can assert on agency policy.

In a considerable number of cases the governor of the state in which the agency is partially or entirely located appoints all or some of the members of the governing board (in a few instances appointments are made from a list of "nominees" submitted to the governor by a third party or agency, and in certain other cases appointments must be made from areas within the service district). Gubernatorial appointment is almost universally the rule when the agency is bi-state in nature, but also is utilized in a number of good-sized regional agencies located entirely within the boundaries of a single state. Thus board members of the bi-state Port of New York Authority are appointed by the governors of New York and New Jersey. Obviously, in these instances the voters in the regional district can assert practically no control over the service agency, and it becomes almost completely an autonomous entity.<sup>5</sup>

Those who support the selection of regional agency board members through methods other than direct election by the citizens of an area have marshaled a number of arguments in defense of their position. It has been claimed, therefore, that officers of local governments serving on regional agency boards can be expected to adequately protect the interests of the jurisdiction which they represent, and thus also the interests of individual residents of that community. The argument that such appointments promote regional-local governmental cooperation also often has been made. With regard to appointment of private citizens to boards, the justification usually advanced is that this makes it possible to obtain the services of exceptionally high-calibre individuals—persons who in most instances probably would not be willing to seek such office through direct election. Another argument often put forward is that the size and somewhat complex geographic-economic-governmental structure of a large regional area make it difficult to directly elect board members of an agency. A final claim is that due to the existence in many regional areas of several single-purpose service agencies the direct election of members of the board of each would result in a multiplicity of elections and consequent voter confusion.

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<sup>5</sup> In some instances members of regional agency governing boards are chosen by a combination of techniques—usually appointment by a variety of the above-described methods.

Direct Election. Obviously, there is a degree of merit to at least some of these arguments. However, in view of the steadily increasing development of the regional service agency concept, and the greater delegation to regional units of the authority to tax and other broad powers, many observers would question whether the selection of agency governing boards should be on any basis other than direct election. They point out that since the policies and general outlook of an area-wide unit presumably should be regional rather than narrowly local in scope, appointment to its board of officials of constituent municipalities and counties constitutes a less-than-satisfactory practice. Critics particularly have felt that appointment of private citizens to a regional unit's governing body, regardless of what abilities such individuals may have, results in important policy and fiscal decisions being made for a public agency by persons with virtually no responsibility to the voter whatever. They also question whether this defect could be cured by requiring that a number of special interests—i.e., consumer groups, labor organizations, etc.—be represented on appointive boards, even if it was possible to adequately define exactly who belonged to the groups mentioned.<sup>6</sup>

Supporters of elective governing boards feel that utilization of such a method should not be adversely affected by the fact that regional agencies often serve areas of a highly diverse nature, pointing out that almost each state in the union faces a similar problem in electing a legislature. They would concede that concern about voters making an intelligent choice among candidates for a large number of offices is a justifiable one, but contend that this difficulty could be overcome by consolidation of regional functions in a limited number of agencies. These persons would not except the bi-state agency from the requirement of an elective board.

It is possible, of course, that a regional agency governing board embodying a combination of elected and appointed members might be developed. Such a board could have the great majority of its members elected by voters of the region, but would include a few ex-officio representatives of governmental agencies which contributed substantial fiscal support to the unit. This would permit a state government which made large appropriations to a service unit or local jurisdictions which helped pay a unit's annual deficit to have some voice in determining its policies.

The goal of bringing important area-wide programs under voter control also might be solved by creation of an elected regional coordinating council or regional government, which would have general authority over policies and programs of all regional-level agencies in the area. Examples of methods used to achieve centralization of control over regional services will be discussed in a subsequent section of this chapter.

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<sup>6</sup> This solution has been proposed for one major bi-state authority.

The entire question of the legal adequacy of various methods presently being used to select independent regional agency board members undoubtedly will be litigated extensively in the next few years in view of recent decisions of higher courts in the one-man one-vote area. Out of this may well come some specific ground rules which will help solve the problem.

### Annexation by the Regional Agency

Inasmuch as a basic purpose of the typical regional service agency is to furnish a service in response to a broad demand, the condition occasionally may develop where, due to population growth or other factors, there is need for a formal adjustment of the boundaries of the unit. This is not true in all instances—some regional districts have been established initially on such a broad scale (encompassing half-a-dozen or more counties) that several decades may well elapse before population or other growth compels serious consideration of a possible increase in territory. However, in many instances initial delimitation of boundaries may have been on a more narrow basis, and thus the need for change can occur more frequently. It should be noted in passing that the multi-county regional agency is not normally affected by boundary adjustments of cities, townships, etc., located within its service area, whereas the small sub-regional special district often may be.

**Legislative Action.** When a need for expansion of regional district boundaries arises there are several types of action which normally may be taken to accomplish the adjustments.<sup>7</sup> In the instance of a district created by a special act it often is necessary to return to the legislature for desired boundary changes (although occasionally the act outlines procedures whereby additional counties or other jurisdictions may on the basis of local determination join the regional unit). In the case of districts established under general enabling legislation the initiative for boundary modification normally must come from a local source. While procedures vary substantially depending on the state and the type of district, usually initiation of the annexation effort takes place in the territory desiring to join the district, through action of governing bodies or by voter-initiated petitions. Following hearings and other formalities the regional district's governing board determines if the proposal is acceptable. In a number of instances final approval by the electorate of the area to be annexed or by this group and by the voters of the regional district may be required. Very infrequently the judiciary may play a key role in hearing and deciding annexation proposals.

**Functional Annexation.** A second type of annexation occasionally engaged in by a regional agency is functional rather than territorial. This can occur, for example, when

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<sup>7</sup> In some cases the legislation authorizing creation of regional agencies is silent on such matters as annexation and dissolution.

a multi-functional agency absorbs the activities of a single-purpose district, or when a regional unit incorporates a smaller organization which has performed a related service within its boundaries. Such annexations may become vitally important if an effort is made to reduce the number of independent special agencies functioning in a regional area. Under mergers of this type often there must be not only a determination of financial equities but also decisions made on employment rights, pension benefits, etc. for the staff of the merged entity.

Several general comments should be made on annexation by regional agencies. It must be noted that a number of such agencies (particularly transportation authorities and port districts) may have fairly extensive power to operate extra-territorially. For this and allied reasons the need for annexation often may not become a critical issue with many agencies—particularly if the district is financed by user charges and grants from higher levels of government rather than taxes. If annexation does take place difficult problems sometimes arise in determining whether special charges or supplementary taxes should be levied in the newly-annexed area to equitably spread the cost of prior capital improvements made by the district or to pay for the expense of necessary service extensions in the new section. Thus the Metropolitan Water District of Southern California levies special annexation charges in the form of back taxes against jurisdictions joining that agency, which are used to help fund capital programs.

### The Regional Agency and Intergovernmental Cooperation

The necessity of a regional service agency coordinating its plans and programs with those of other governmental jurisdictions is so apparent as to scarcely require elaboration. Obviously the activities engaged in by regional districts can vitally affect—and be affected by—programs of other governments, including state and federal, local and parallel regional units. However, the degree of coordination achieved between the typical agency and other governmental bodies, while unquestionably satisfactory in some respects, often does not appear to reach the level which might reasonably be felt desirable in other important areas.

Most of the large and even medium-size regional agencies now have established full-fledged planning departments, one of whose functions is to help coordinate the unit's physical plans with those of other governmental bodies. Through these departments and by formal and informal contacts between regional agency officials and their counterparts in other units of government a reasonable degree of intergovernmental planning coordination, at least on lower-level matters, appears to have been achieved. In an occasional instance regional districts even may be required to submit formal plans for physical facilities to affected local jurisdictions, state agencies or other units of government for review and approval. While this type of procedure could well be of value, it has been criticized on the ground that it often occurs too late in the planning process to be really effective. In other cases only general public hearings by the regional

agency on a proposed improvement may be required.

In the areas of facility development and general operations most regional units appear to maintain relatively sound working relationships with other governmental bodies. For example, at least two major area-wide transportation agencies presently are constructing facilities which will be utilized jointly with local and (in one case) state governments. Cooperation on technical matters between regional agency personnel and their opposite numbers in state and local governments, even in such complex fields as sewage treatment, appears to be generally good.

To some extent cooperation achieved between regional districts and local and state governmental bodies can be ascribed to the increasing importance of intergovernmental grants. Grants-in-aid made to regional units by state or local governments occasionally may be conditioned on the performance of certain programs desired by the unit making the grant. And, obviously, when regional agency boards are composed of persons for example, who also are elected officials of local governments there normally will be careful attention paid by the regional agency to the wishes of the appointing unit. The counter-danger existing here, of course, is that the vitally-important regional point of view may be totally lost in such a body.

On the other hand there clearly are important areas in which coordination of the typical regional agency's plans, programs and financing procedures with those of other governmental agencies is weak. At the regional level itself there is lacking in almost every instance a central agency which can develop a broad-scale plan and program for all area-wide services and coordinate and control its execution and financing. The lack of such a body means that regional service agencies may develop and finance individual area-wide programs without concerning themselves about the broad consequences such programs will have on the total regional area or on its fiscal stability. No particular consideration need be given by any single agency, for example, to the effect that large scale debt financing carried on by it will have on the capacity of other regional units to in turn issue bonds.

The development of area-wide plans by regional planning commissions has not filled the void that exists, since such plans concern themselves primarily with physical facilities rather than with the broad aspects of program development and financing. Furthermore, regional planning commissions, even if given so-called regional review powers to aid in enforcing physical plans, simply are not structured in such a fashion to enable them to exert any real degree of overall regional program control. Other even more informal methods—such as citizen boards occasionally established to help advise regional agencies—can be expected to be of no serious value in overall regional program development (although they may serve a useful function in a technical advisory capacity). More positive approaches than these clearly must be looked to in order to achieve the broad coordination of programs and their financing needed at the regional level.

### C. Efforts to Achieve Regional Government

In view of the massive population growth and intensive general development in multi-county metropolitan areas in America during recent decades, plus the proliferation of single-purpose and even multi-purpose regional service agencies, it might be expected that in at least a few states full-fledged regional governments would have been instituted by this time. Such has not been the case. America has achieved relatively little to date in the way of any true regional government, which might provide a variety of public services as part of its overall function. This lack of progress is easily understandable in regional areas encompassing more than one state, since the obstacles here to creation of such a government are quite formidable. However, little more has been accomplished in metropolitan regions located entirely within the boundaries of a single state.

#### Experiments in Limited Regional Government

The closest approach to achievement of an actual regional multi-county government in America at the present *time is* found in the *seven-county* area surrounding the cities of St. Paul and Minneapolis, Minnesota. Here a metropolitan council, created by special legislative act (as the successor to a regional planning agency), has been given the responsibility of planning and coordinating the development of the regional area, and, in some instances, the power to exercise a substantial degree of direct control over regional service functions. The Twin Cities Area Metropolitan Council has been granted its most extensive authority in the fields of sewage collection and treatment and parks and open space. In each of these areas the council develops an overall plan for dealing with the problem and appoints governing boards for the sewer and park agencies which execute and implement the plan. The council through its authority to plan, appoint board members and prepare or review capital and operating budgets for each of these two agencies clearly can exercise substantial control over their operations. In the area of solid waste disposal the council's authority is somewhat less—it develops a regional-level plan (which must be adhered to) for waste disposal, but actual acquisition and operation of the disposal sites is done by county governments. In other regional service fields the council's function is primarily limited to planning or planning review, with the council having authority to suspend plans of independent regional agencies (subject to an appeal to the legislature) if it finds them in conflict with overall area plans. The council also may appoint a non-voting member to certain regional agency boards. In order to finance its functions the Metro Council may levy a property tax of .7 of a mill in the entire seven-county regional area. Members of the council's board are appointed by the Governor of Minnesota from specific districts in the region (except the chairman, who is appointed at-large).

In appraising the status of the Metropolitan Council of the *Twin Cities Area* it first must be noted that this agency is far more than a mere regional council of governments.

Unlike the typical council of governments, which must obtain its basic financing through voluntary contributions from local jurisdictions, the Metro Council enjoys the independence which comes from mandatory tax support. The council's governing body is independent of local government ties, and thus can be truly regional in outlook and decision formulation. No local unit may voluntarily withdraw from the Metro Council's jurisdiction, thus assuring stability of operation. In short the council is a permanent regional structure with solid fiscal support. At the present time, however, the Metro Council would in fairness have to be described as only a hesitant first step toward true regional government. With its primary emphasis on planning controls rather than program effectuation, with its direct authority over regional services limited largely to two areas, and with its governing board appointed by a non-regional official rather than directly elected (and thus not fully responsible to the public it serves), the council probably should presently be regarded as a regional coordinating agency rather than a government. However, proposals have been made both to directly elect the members of the council's governing body, and to make dependent under the council all agencies performing area-wide services. Suggestions also have been made that additional taxing authority at the regional level be granted, and that certain property tax revenues in all jurisdictions within the seven-county area be pooled and reallocated among local units on a population basis. If these items are accomplished major steps will have been taken toward the development of a new government with power to act in areas of regional concern, which would co-exist with present county and local political jurisdictions.

In the San Francisco Bay Area, where a very substantial number of single-purpose multi-county service agencies presently operate, a committee of the state legislature has recommended that a limited-purpose regional government be created. This proposal would involve establishment of an organization with a 36-member governing board, elected from districts. The new body would have broad planning powers, plus authority to effectuate its plans in such areas as control of bay shore line development, sewage treatment, regional parks and open space development, etc. Financing would be through regional income and business gross receipts taxes. Another proposal for the area—this one developed by the Association of Bay Area Governments—seeks the creation of a regional home rule agency, whose governing board primarily would be made up of representatives of local jurisdictions, and which would function in a number of problem areas either directly or through supervision of existing multi-county agencies. Financing also would be by income and gross receipts taxes. To date no positive steps have been taken toward the adoption of either of these alternative schemes.

In the non-metropolitan regional field the state of Minnesota recently has divided itself into a number of multi-county districts, in which agencies are to be established (with limited ad valorem taxing power) whose basic function will be to plan and coordinate development of their areas. In Virginia the service district described earlier in this report originally was proposed by a citizen study committee as a general purpose unit of government, which would be a co-equal of counties and cities in meeting the needs

of citizens of the state, and which under certain conditions would enjoy property taxing power. In its final form the service district did not attain full status.

As was mentioned previously the Province of Ontario, Canada has assumed a pace-setting role in the establishment during the past few years of two new regional governments. The first of these, the Ottawa-Carleton Regional Municipality, was created by act of the Ontario legislature in June, 1968. The new unit crosses old county boundary lines (although just barely), and for judicial purposes is deemed to be itself a county. The local municipalities (except for counties) continue in existence and retain considerable power. The regional government carries on such activities as area-wide sewage collection and treatment, water purification and distribution, regional highway construction and maintenance, area-wide planning and certain health and welfare services. Its staff assesses all property in the region, it levies a tax for regional government purposes, and it issues all bonds for itself and for all local municipalities in the region. The governing body of the new regional municipality consists of persons holding elective office in the local jurisdictions constituting the region.

The Regional Municipality of Niagara came into existence on January 1, 1970, also through unilateral action of the Ontario legislature. This new regional government replaces the governments of two counties. It, like the Ottawa-Carleton agency, performs regional functions in such fields as water, sewerage, highways, planning, health and welfare. Its powers in the fiscal area are similar to those of Ottawa-Carleton. A number of consolidated local municipalities continue to perform local-level services. The method of selection of the Niagara governing body differs markedly from that of the other regional municipality, however. The Regional Council of Niagara is only partially composed of elected officials of local jurisdictions, with the balance of its members elected directly by the voters.

### Metropolitan Area Governments

In a few areas of the United States and Canada so-called metropolitan governments have been established. These basically have been of two types—the integrated, or single-tier, variety, in which the metropolitan-level government replaces all local governments (usually achieved by some form of consolidation of the governments of the county and the major city located therein), and the two-tier type, in which the metropolitan government assumes certain functions which it can perform efficiently on a broad-scale, leaving to the municipalities the responsibility for carrying on local type activities. Nashville-Davidson County is an example of the first type; the Municipality of Metropolitan Toronto in Canada is representative of the second.

At the present time all existing metropolitan governments are confined to a single county, and thus are not regional in nature (Metropolitan Toronto is considerably less

than county-wide in area). As their suburban fringes expand into adjacent counties a decision ultimately will have to be made as to whether metro governments should be expanded into regional governments, capable of dealing with the problems of the total developed area. Both metropolitan governments mentioned—Nashville-Davidson County and the Municipality of Metropolitan Toronto—face such a problem at the present time.

### Councils of Governments

The numerous voluntary councils of governments now springing up across the nation have been heralded by some as a type of regional government. An examination of the structure and powers of these units, however, shows that they are not a true regional government, and actually do not reach the level of a regional coordinating agency such as the Metropolitan Council of the Twin Cities area. The voluntary nature both of their membership and their financial support leaves them singularly vulnerable to the threat of withdrawal by one or more important member jurisdictions. Since their governing boards generally represent specific local governments there exists a continuing danger of non-regional, parochial points of view taking precedence.

The councils of governments at the present basically is a cooperative voluntary agency, in most cases performing principally in a planning advisory capacity. It also works to promote certain joint arrangements between and among communities, and generally to foster inter-governmental cooperation. There are occasional instances of councils of governments performing a few functions on a regional basis—such as police communications networks, law enforcement, training academies, and limited regional library services. However, participation in such activities by local jurisdictions is completely voluntary. The means by which a councils of governments can assert its greatest degree of authority over area-wide activities is through its power of regional review authorized under Section 204 of the Demonstration Cities and Metropolitan Development Act. This, however, basically is a negative power over capital projects rather than an affirmative one over total programs. It should be noted that regional service agencies are not in most instances members of councils of governments.

The question yet to be faced by councils of governments is whether they can successfully negotiate the change from a planning agency to one whose basic function is to control, manage and even operate major regional programs. To achieve such a change may well require such a complete modification of the structure and powers of the typical council that it will bear little resemblance to its original form.

#### D. Other Regional Service Programs

As was mentioned earlier, state governments, while normally reluctant to provide a local-type service in one or two regional areas of a state, occasionally have been compelled to do so in order to meet a crisis-type situation. Two examples of such programs are found in the Toronto and New York City regional areas, where state or provincial governments are providing transportation services.

In the Toronto region the government of Ontario recently has begun to provide directly rail rapid transit service to an area along Lake Ontario extending from approximately 40 miles west to 20 miles east of the center of the city. The provincial government has underwritten all costs—capital expenditures and operating deficits—for this service (fares charged passengers do not meet operating costs). This expenditure by the province is justified in part on the ground that direct provision of rapid transit service eases traffic congestion on highways serving the Toronto region and reduces the necessity for construction of additional roads, the cost of which is paid in large part by the provincial government.

The difficulty of providing adequate rail commuter service from several counties in New York State and Connecticut into New York City has resulted in an compact by the two states to underwrite the cost of such service (less fares collected). Local jurisdictions in the two states will play no part in the funding of this program.

## CHAPTER II

### THE FINANCING OF SERVICES AT THE REGIONAL LEVEL

One specialist in the field of state and local government finance has set forth three basic requirements which he feels must be met if a program of any public agency is to be successful.<sup>8</sup> These essential elements would appear to apply with particular force to regional service programs and projects. They are:

1. The project must be governmentally viable. This means that the agency undertaking the program must have the power and competence to plan, construct and operate it in a sound manner. Planning competence is needed to insure that the program be developed in such a manner that it meets in a broad fashion the foreseeable needs of the people and the territory to be served. Administrative competence is required if construction is to be efficiently and economically accomplished and if operations are to meet expectations.
2. The project must be technically viable. It must be designed and built to the best possible standards, and must to the maximum feasible extent be adaptable to possible future changes in needs and uses.
3. The project must be fiscally viable. There must be firm assurance of revenue adequate to meet all costs necessary to the successful construction and operation of the project. This will include debt service on bonds issued to pay for capital construction, expenses incurred in operating the facility, and costs of maintaining and periodically replacing and renewing the physical plant. Depending on the nature of the program these revenues will come from taxation, from user or service charges, or from both.

Of these three requirements perhaps the easiest to meet in a regional service program is that of technical soundness. In most cases necessary design and engineering skills can be obtained to solve even the most complex problems (in this area perhaps the greatest attention must be paid to insuring that sufficient flexibility is built into the program to permit adaptability to future change, including necessary expansion). Achieving governmental viability is, of course, often much more difficult. However, as has been noted earlier in this report, even single-purpose districts usually have been able to plan and administer individual programs in a reasonably effective manner,

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<sup>8</sup> Wade Smith, Vice President, Dun & Bradstreet, Consideration in Airport Financing, a report presented to the New Jersey Joint Legislative Committee on Transportation and Public Utilities, March 18, 1969.

although often falling down in the areas of broad program coordination and public accountability.

The greatest challenge normally faced in successfully providing a regional service is the development of a sound financing program. Since the agencies responsible for providing the bulk of regional-level services are in most instances special units, somewhat outside the governmental mainstream, they do not enjoy the broad taxing authority usually granted municipal and county governments by state constitutions or statutes. Each regional agency, therefore, normally develops (or is granted) a highly individualized financing plan. This has resulted in the utilization of a broad range of financing methods by the various regional agencies throughout the country.

Brief mention should be made at this time of the division of functions performed by regional agencies into the traditional categories of proprietary and governmental and the relation, if any, of this division to financing. By far the greatest number of regional agencies carry on activities which have been considered proprietary in nature, while a minority perform so-called governmental functions. In past years proprietary functions—such as the provision to users of water, electrical power, public transportation, etc.—were presumed to be almost entirely self-supporting, while governmental-type activities (public school education, welfare, etc.) were expected to be funded from general tax revenues. Today, however, the line of demarcation between proprietary and governmental functions is fast fading, and so also are traditional concepts of how each should be financed. The provision of transportation service, for example, whether the carrying of passengers in a vehicle or the operation of an airport facility, has become so inter-twined with basic everyday needs in a metropolitan regional area that it would be difficult to specifically categorize it. A study of numerous agencies across the nation shows that factors other than the time-honored proprietary-governmental breakdown are determining the financing techniques used. These will be noticeable as specific funding methods are considered in the following sections.

## A. The User Charge as a Means of Financing Regional Services

User or service charges—such as the fare exacted from each passenger on a bus, the bill paid by a householder for water consumed and sewage treated, or the rental paid by an athletic team for use of a stadium—have been the traditional means of financing a major part of the cost of many regional functions. In view of the somewhat unique nature of regional agencies—the fact that they are special units, are usually not directly responsible to the voters, and generally perform so-called proprietary functions—this reliance on fees charged directly for a service is understandable. While there has been a trend toward somewhat less dependence on service charges by the typical regional agency in recent years, they still are vitally important. However, at the present in only a few instances—primarily in certain bridge and tunnel operations and public power districts—do user charges alone (or in conjunction with revenue bonds financed solely through directly earned income) completely fund both the capital and day-to-day costs of regional agencies. In such areas as public transportation, water, sewage collection and treatment, airports, port and terminal facilities, sports arenas and hospitals, user charges play an important but normally by no means an exclusive role in financing the particular service. Agencies carrying on functions producing broadly-based benefits—such as flood control, storm drainage and mosquito abatement—do not normally rely heavily on user charges as such, except perhaps in the form of special assessments. Regional districts which perform regulatory functions—such as those enforcing air pollution standards—almost never are financed through user charges.

Perhaps the basic rationale behind user charges is that the person who receives from a service a specific benefit far beyond that enjoyed by other citizens should pay the cost. Other arguments often advanced in support of user charges are that through their utilization scarce tax resources can be reserved for the financing of functions which cannot possibly pay their own way, and that such a financing method helps insure that service facilities will be developed only when the demand warrants it. User charges are felt to be particularly valuable in instances where there might be significant waste if the good or service was furnished without any charge whatever. User or service charges also usually are confined to areas where the service provided can be more or less exactly measured, and where the collection of many small individual charges is not too difficult or costly.

The user charge method of financing appears completely fair at first glance, since the person who enjoys the service pays the cost of providing it. There may well be times, however, when social utility requires that a service or facility be supported by other governmental resources as well. For example, in order to keep traffic congestion in a central city from reaching crippling proportions, or to provide service to a significant minority of persons unable to afford other means of travel, it may be necessary to devote general tax dollars to development and support of a public transportation system which could not possibly be built and operated by user charge financing alone. The construction of massive sewage collection and treatment facilities to achieve clean

streams and eliminate a major health hazard in a region is another case where supplementary aid might well be justified. Additionally, complete reliance on the user charge by an agency such as a transportation authority may result in fares reaching such a high level that the facility is overpriced for the average person—thus resulting in reduced patronage and a large deficit.

It also should be noted that even in instances where the operating expenses incurred in providing a service ultimately can be fully met by user charges alone, supplemental financing sources often are required to underwrite initial capital expenditures or augment operating revenue during a start-up period.

Example: The Metropolitan Water District of Southern California (which supplies water on a wholesale basis to a large number of governmental jurisdictions and special districts in a vast section of southern California) was faced with massive initial capital expenditures in order to bring water in from a distant source of supply. To pay these costs without setting initial water rates at an excessively high level it was found necessary to issue general obligation bonds and levy property taxes to pay debt service charges thereon.

Example: After creation of the Municipality of Metropolitan Toronto, the Toronto Transit Commission was requested to extend surface transportation service into areas which formerly had been suburban but were now part of the new Metropolitan Municipality. Substantial deficits were incurred by the Transit Commission until the new service became fully established. The Municipality of Metropolitan Toronto made a special grant from its general fund to the Transit Commission to reimburse it for the losses incurred.

### Agencies Utilizing Service Charges

In discussing the various types of agencies which utilize service charges, one of the first which should be examined is the bridge and tunnel district. Such a unit normally charges a toll for each vehicle or pedestrian using the facility. As previously was mentioned, this type of service agency often is able to rely on user charges alone (or revenue bonds with debt service funded by user fees) to meet both its operating and capital costs. There are significant reasons why this is possible. First of all, such facilities in many instances enjoy a monopoly position—persons wishing to travel from one area to another (particularly by automobile) must use them. Secondly, operating costs of the facility traditionally have been very low in relation to most other services. Third, many such facilities were built a number of years ago, with low cost dollars; thus it has not been difficult to pay off any remaining debt during an inflationary period.

Example: The Golden Gate Bridge and Highway District, encompassing six California counties, was incorporated in 1928 for the purpose of constructing a bridge which would join the city and county of San Francisco with the area to the north of San Francisco Bay. Apart from limited property taxes levied initially in the district to pay for certain preliminary expenses, the bridge facility has at all times stood on its own feet financially, and met debt service and operating costs entirely from toll revenues. The substantial annual surplus now generated by the district shortly may be utilized to finance other public transportation facilities.

One or two bridge and tunnel districts whose capital facilities were constructed very recently have found it much more difficult to meet both debt charges and operating expenses out of toll income, due to the fact that construction costs were high and utilization (particularly during a start-up period) less than originally forecast. In such instances the agency often quickly found itself in serious financial trouble since bridge and tunnel districts frequently have no basic unit of government with which they are identified (other than perhaps the state government) and which can be looked to for fiscal assistance in periods of crisis.

Mass transportation agencies over the years have relied to a substantial extent on farebox revenues to meet costs. However, out of some 20 presently existing or proposed public transportation agencies examined during the course of this study, not a single one today is totally self-supporting with respect to both overall operating costs and capital expenditures. In addition to user charges each to a greater or lesser degree relies, or proposes to rely, on federal aid, state government assistance, contributions from or assessments on local communities located in the area served, property or other direct taxes, or support from another service facility which earns surplus revenues. In particular agencies which are developing new transit systems with their own rights-of-way normally require massive amounts of financial support from sources other than the farebox. However, even regional transportation agencies operating only the more conventional rubber-tired surface vehicles on public thoroughfares have found it difficult during the past few years to be completely self-sustaining—primarily because of the rapidly rising cost of labor.<sup>9</sup>

Example: The Bi-State Development Agency, encompassing several counties in Missouri and Illinois, provides public transportation service to the

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<sup>9</sup> The history of transportation agencies in the United States and Canada has been one of massive governmental assistance to carriers. For example, the government of Canada granted an almost unbelievable series of subsidies over a number of decades to the Grand Trunk-Canadian National Railway. American railroads also were awarded land and other subsidies by federal, state and local governments, particularly during the period when new lines were being developed.

St. Louis metropolitan area by motorbus only. Except for certain modest grants from the above mentioned states and the federal government for the purpose of purchasing new motor vehicle equipment, plus a State of Illinois grant to subsidize reduced fares for school children, the agency stands on its own feet financially, meeting operating costs and debt service charges out of farebox revenues. The agency has made it clear, however, that with rising expenses some form of supplemental fiscal aid is needed. If Bi-State is required to develop a rapid transit system massive financial assistance from a source other than user charges will be required.

Example: The Port of New York Authority, through a subsidiary agency named PATH, several years ago purchased from a private railroad certain commuter lines (Hudson Tubes) used to transport passengers between New Jersey and New York City. Physical facilities of the lines purchased were badly rundown, requiring extensive rehabilitation. Authority experience indicates that an annual deficit of over ten million dollars is being incurred in meeting debt service charges and operating costs of the facility. This deficit will be made up from surplus revenues earned by other operations of the Port Authority. The Authority recently has been requested by spokesmen for certain civic groups to provide from any surplus earnings (to be increased through higher tolls on Authority bridges and tunnels) further subsidization for rapid transit facilities in the New York City regional area.

Example: The Delaware River Port Authority, a bi-state agency (Pennsylvania and New Jersey), has for many years operated toll bridges across the Delaware River between Philadelphia and certain New Jersey communities. The Authority (through a subsidiary) recently has constructed a 14.5 mile rapid transit line between downtown Philadelphia and Lindenwold, New Jersey. Capital costs of this transit facility were met through Authority unencumbered funds (earned over the years by its toll bridge operations), by a state of New Jersey grant, and by issuance of Authority revenue bonds. It is not anticipated that operating costs of the transit line plus debt service charges on its bonds can be met by transit revenues, in the immediate future at least, thus other agency earnings will be tapped to make up the deficit. A consolidated revenue bond issue, with debt service payable from earnings of all services, will facilitate this subsidy program, (bond proceeds also are being used to construct new bridges). It further should be mentioned that in order to help meet debt service charges on this large bond issue the Authority sharply increased tolls on existing bridges.

In the field of sewage collection and treatment there is considerable reliance by many of the agencies studied on user or service charges, generally based on volume of sew-

age delivered. However, while a number of agencies bill each householder directly for the sewage he produces (measured by water usage), other regional districts charge each municipality which utilizes its services a user fee based on the total volume of sewage delivered by the community to the agency's lines (the municipality in turn then passes the fee paid on to its citizens through taxes or service charges).<sup>10</sup> Some agencies (Allegheny County, Pennsylvania, Sanitary Authority is an example) use both of the above methods of billing. Other sewer districts use different revenue-raising techniques to finance their operations. Two districts—the Metropolitan Sanitary District of Greater Chicago and the Metropolitan District (of the Hartford, Connecticut area)—eschew service charges altogether, and rely on property taxes alone to pay for sewage collection and treatment. Generally, however, sewer districts will utilize property taxes, federal and state aid, special assessments and miscellaneous charges to supplement the basic user fee. The property tax has been found particularly useful during a start-up period, when the amount of service charge income is not fully established or is slow to come in. It also is valuable as a supplementary resource to meet debt service charges. Special assessments occasionally may be used to finance improvement projects, particularly when the agency's debt ceiling has been reached.<sup>11</sup>

Example: The Metropolitan Denver Sewage Disposal District was organized in 1961 to enable the development of a regional sewage collection and disposal program encompassing a number of communities. Each participating municipality is charged for sewage delivered to the district for treatment, with the fee based on a somewhat complex formula which takes into account both quantity and quality of effluent. The district submits to each municipality prior to the beginning of a fiscal year an estimate of the annual charge, which then must be budgeted for and paid by the local jurisdiction on a quarterly basis (subject to final adjustment, of course). The municipality in turn is required to levy on its residents a tax sufficient to meet this obligation to the district (unless the local community raises the funds through some type of local sewer service charge). In addition, in order to get the program off the ground the district was given authority to levy up to October 1, 1965, an ad valorem tax of 3/4 of a mill on all taxable property within its boundaries, which could be used for construction or any contingent purpose.

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<sup>10</sup> Newer methods of charging take into account quality as well as quantity of sewage produced. This seems essentially fair, since more complex methods of treatment may be required for certain types of waste.

<sup>11</sup> Various factors appear to have dictated the several methods used by agencies in obtaining necessary revenue. Lack of individual home water meters in sections of the area served has made direct household billing based on volume impossible in some districts. In certain other agencies cost assessment methods developed many years ago appear to have been retained even though use of new techniques might well result in a fairer apportionment of charges.

Example: The Metropolitan St. Louis Sewer District collects and treats sewage for most of St. Louis County and for the city of St. Louis (a separate jurisdiction). The district's financing program is of more than ordinary complexity. In general, however, operating and maintenance expenses of the agency are paid for principally by user charges (based on volume of sewage produced by the individual home or building) supplemented by a small ad valorem tax. Construction of treatment plants is financed partly through service charges levied while the plant is under construction (thus permitting a degree of pay-as-you-go financing) and by general obligation and revenue bond issues (debt service requirements are met by property taxes and user charges). Construction of sewer lines is usually underwritten by bond issues. All bond issues must be approved by the voters. Sub-districts within the overall district are formed for each capital improvement so that only those who benefit from a construction project pay for it (this results, of course, in differential sewer charges and tax rates in various areas). Since bond issues cannot exceed five percent of the assessed valuation of the property in each area, in some instances it has been necessary to use special benefit assessments to finance essential programs.

Example: The Municipality of Metropolitan Seattle instituted operation of sewerage facilities serving the Seattle regional area in 1962. Some 29 cities and sewer districts collect and deliver to the Metro sewerage system sewage and industrial wastes. Metro in turn transports such sewage to its plant for treatment. Each participating jurisdiction (under terms of a signed agreement) pays Metro a sewage disposal charge each month based on the number of residential or residential equivalent (industrial and commercial) customers in its area. Adjustments in the charge may be made where sewage wastes of unusual quality or composition are delivered (pretreatment may be required) or when excessive ground or storm water enters a local system. Each participating jurisdiction in effect is required to establish and collect charges sufficient to enable it to maintain its local sewage collection facilities and pay all Metro fees. Metro rates generally must be maintained at a level which will produce funds sufficient to meet operating and maintenance costs, debt service charges (on revenue bonds issued to finance construction) and required reserves. If a deficit occurs it may be assessed against the participating jurisdictions in proportion to assessed valuation.

Regional water districts follow a financing pattern somewhat similar to that of sewer agencies, with reliance on both user charges and other sources of funds. Some agencies—such as the Metropolitan District Commission of the Greater Boston area—act as wholesalers, delivering water in large quantities to municipalities, which in turn sell it to the individual homeowner. Others—such as the Washington Suburban Sanitary

District—deal directly with the ultimate consumer. Special assessments may be used by water districts to pay for initial construction or extension of water lines. Certain other fees—house or building connection levies, inspection charges, etc.—also occasionally are utilized. More than half of the regional water agencies have ad valorem taxing power.

Example: The Washington Suburban Sanitary Commission supplies water to several hundred thousand individual users in two counties in Maryland (other services also are provided). Major capital facilities (water filtration plants, large pipelines, etc.) are financed through bond issues, with debt service basically paid through user charges. Capital improvements of a more modest nature—such as smaller water lines—are funded through bonds repaid from a front-foot benefit charge levied for a 20-year period in the area served by the facility. Maintenance and operating costs of the total water system are financed through user charges. Ad valorem taxing authority is available for back-up of all bond issues, thus permitting the agency to issue general obligation debt instruments.

Regional airport agencies meet the bulk of their operating expenses through user or service charges levied primarily against airlines and other private organizations utilizing airport facilities or space (concession revenue often is important in airport operations). Until very recently the policy followed in some European countries of assessing a user charge or fee against passengers departing from an airport had not been adopted in America; however, during 1969 at least two American states began imposing such a charge. Regional airports often rely on non-user sources for financing a considerable proportion of their heavy capital costs, including federal and state grants, contributions from city or county governments served by the facility, and in one or two instances property taxes, usually of a “back-up” nature (available if needed). It should be noted that a number of regional airport agencies at the time of their creation were given at no cost or at a minimum cost already existing capital facilities which had been-constructed by a higher level of government. This obviously eased their capital financing burdens. In several cases regional airports are operated by a multipurpose agency, so that deficits incurred in either operating or capital accounts can be made up by surplus earnings of other facilities.

Looking to the future, any regional airport agency which must construct a new facility from the ground up for the coming generation of airplanes clearly will need to supplement user charges with other sources of revenue. Its problems will be particularly difficult if it has an existing airport on which substantial debt is owing, since airline user charges or even a limited property tax may be spread exceedingly thin in financing two facilities. The thrust of new technology—and consequent rapid obsolescence of existing facilities—thus may bring with it somewhat harsh fiscal consequences, requiring that new revenue sources be developed. Some agencies are turning to the passenger user fee and related charges as a partial solution.

Port authorities are agencies which, in addition to their basic duty of constructing and operating piers, wharves, etc., frequently carry on other activities. The Port of Portland, Oregon for example, maintains a navigable channel in the Willamette and Columbia Rivers, furnishes ship repair facilities, operates airports and has developed an industrial park. While all regional port districts rely to a substantial degree on user charges for financing, a fair proportion supplement this basic source by ad valorem property taxes, aid from state governments, assistance from cities within the territory served and federal grants.

Example: The Albany Port District Commission operates certain port facilities plus a terminal railroad, and also constructs and leases buildings for warehousing and other purposes. The agency, under terms of its enabling legislation, files annually with the two cities (located in adjacent counties) which constitute its district a statement of the amount of money needed to balance its budget after basic income derived from its port and allied operations has been deducted. The two cities then are required to raise the amount certified as needed by real estate levies. (The percentage to be raised by each is based on respective assessed valuations.) During the period 1964-68, 83 percent of the district's budget was met through fees from basic operations, and 17 percent from taxes levied by the member cities.

Regional park districts rely on user charges for only a very modest proportion of their budgets. Stadium and coliseum agencies depend very heavily on user charges, but some form of supplementary fiscal assistance also usually is required (in the case of the Los Angeles Memorial Coliseum Commission a separate private agency built with its own funds a major capital facility, and then turned it over cost free to the commission for operation). Regional hospital units normally receive a considerable proportion of their revenue from user fees (paid by patients either directly or through third parties), but other revenue sources invariably are required for both operating and capital expenditures. Libraries rely to only a very limited extent on user fees, although in at least two instances central city or county libraries contract to perform services for a number of cities outside their basic jurisdictions at a stipulated fee.

Financing of regional library activities appears to be perhaps the most unsatisfactory and confused of any service studied. Actually, many central city libraries formally or informally are performing a wide range of services for a regional hinterland on an unpaid or substantially unpaid basis. This appears clearly unfair to those taxpayers supporting the central unit. A sound solution would be some type of integrated regional library, with a broad financing base. Since this may well be years away in many areas, certain interim steps might be taken to correct the most glaring inequities. There appears to be no sound reason why central libraries could not institute either direct or indirect user charges for certain services. For example, fees based on services rendered

clearly could be charged the many non-resident business concerns seeking research assistance (perhaps through yearly contracts). Similarly, county or city governments outside the library's basic jurisdiction could be asked to contract for special services to their residents. Institutions of higher learning which have large numbers of out-of-town students making extensive use of library facilities might well be asked to make an annual contract payment. It should be noted, however, that many central city libraries also are inadequately funded in relation to the services they must provide to local residents. Whether there will be any interest on the part of the overall regional area in helping assume this burden is very much open to question.

Example: The Milwaukee Public Library, under terms of a contract with Milwaukee County, provides services to numerous municipalities within the county which are paid for by each community. Milwaukee County directly reimburses the city for county-wide use of the city library reference and research facilities. Cities in an adjacent county also contract with the Milwaukee Library for services.

### The Special Assessment

The special assessment, whose use by one or two regional agencies already has been briefly discussed, is somewhat related to the service charge. This levy is imposed on a property to underwrite the cost of certain local capital improvements on the basis of benefit directly received. Its use by regional units in metropolitan areas is limited to several water and one or two sewer districts. Front-foot benefit charges are a form of special assessment also used by an occasional regional agency. In certain non-metropolitan areas the special assessment is utilized to a considerable degree by such agencies as irrigation districts, where the benefit of bringing water to arid soil can to a fair degree be measured.

In general special assessments are a relatively minor factor in the overall financing programs of metropolitan regional districts. They appear to be used principally to keep ad valorem property taxes or user charges at a reasonable level, or to minimize the issuance of general obligation or revenue bonds.

### Use of Surplus Revenues

In discussions of the user or service charge it has been clear that only a minority of regional agencies rely on it exclusively for their financing needs. Of this minority, however, a very few, usually due to some special circumstance (such as operation of one or more semi-monopoly facilities), not only meet all obligations from user fees but have managed to set aside substantial annual surpluses. This poses two definite prob-

lems. First of all, the question must be asked as to whether regional service agencies should be permitted to set user charges at a level which allows the piling-up of considerable surplus funds. Second, if large surpluses are in fact accumulated, it must be determined what should be done with the excess funds and who should make the decision.<sup>12</sup>

The typical enabling or special legislative act by which regional agencies are created often requires that service charges be set at a level which will produce at least a balanced budget—i.e., funds sufficient to meet operating expenses and debt service charges. Almost never, however, does the act prohibit the establishment of rates which will result in a surplus. While controls over the independent regional agency are not always easily established, it would appear possible to develop provisions in enabling legislation which would restrict rates to the level needed to meet basic costs only. Such provisions presumably would be legally enforceable by governmental agencies (such as the state attorney general's office) or even by residents in the service area.

If a surplus has been built up by an agency, can and should it be required to utilize the excess funds to underwrite the cost of other regional-level functions which are essential to the well-being of the area but which perhaps cannot pay their own way (by the agency either assuming a new service or transferring its funds to another unit which would perform the function)?<sup>13</sup> This seemingly reasonable goal is not always easily achieved. Restrictions in enabling legislation may possibly prohibit the agency enjoying the surplus from engaging in the desired new activity or transferring its excess funds to another unit for such use. Bond indenture requirements can be a limiting factor—they may require that an accumulated surplus be set aside in repayment reserves. The governing board of the regional agency quite understandably may wish to maintain reserves for a future period when costs might increase or earnings of a facility drop (particularly if the district has no general taxing authority to fall back on). Or, the board simply may prefer to see the surplus funds devoted to the development of a facility which is closely related to its existing functions or which can be expected to quickly become self-supporting, regardless of its other merits. Another question which has pertinence is whether surplus funds derived from a function performed in one territorial service area should be made available to underwrite the cost of an activity performed in a district with substantially different boundaries.

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<sup>12</sup> Similar problems can arise, of course, in the case of an agency which relies on income from general taxation to meet its expenses.

<sup>13</sup> It also might be possible to merge an agency having surplus funds with another operating at a deficit, particularly if their functions are somewhat similar.

Obviously this situation poses a number of highly complex administrative and legal problems. At the root of the difficulty appears to be the fact that a regional area normally contains no broad governmental unit to which a special purpose agency must report. Thus, with no central regional government or coordinating unit to weigh equities and make and enforce broad decisions on regional services and their financing, the board of each individual agency can pursue an independent course, setting user charges, allocating use of surpluses and making allied fiscal and service decisions largely as it sees fit. The problem of accountability becomes particularly acute if the board is appointed by an official outside the region. Under those conditions probably only in the instances when the best course of action is crystal-clear and public opinion in the region has been aroused to a high pitch can sufficient influence be exerted on the agency to shape its decisions.<sup>14</sup>

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<sup>14</sup> One basic question which must be asked is—should the user of a service ever be compelled to pay an unreasonably high rate to subsidize another function? Or, does fairness require that each stand on its own feet, with the general taxpayer being asked to decide whether an operation worthwhile in general but of a deficit-producing nature should be paid for from tax funds?

## B. General Taxation

Largely due to the limitations of the user charge as a sole means of financing regional services, state governments at the present time are tending to grant a considerable number of regional agencies some degree of general taxing authority within the boundaries of the district served. In earlier years such taxing power was principally limited to levies on property; more recently, however, the right to impose non-property taxes has been given. In certain instances the state government has simply levied a specific tax in the area served and directed that the proceeds go to the regional agency. The state government, often for reasons of efficiency and convenience, may even collect this tax itself and pay the proceeds (less costs of collection) to the regional unit.

Apart from the basic need for revenue from general taxes to balance their budgets, there exists a feeling on the part of many service agencies that broad-based taxes to support regional services can be justified on the theory that area-wide benefits are received. Thus the following statement has been made in defense of a property tax levied throughout a multi-county area to help finance a water conservation and irrigation program:

Because of the basic dependence of practically all business and professional enterprises upon the wealth produced by irrigated agriculture, the people of Northeastern Colorado felt that the general tax levy would be a fair reflection of indirect benefits from the project as derived by everyone in either business or professional pursuits within the area.<sup>15</sup>

Similar benefits to major segments of the community (including motorists, bus riders, businessmen and property owners) have been claimed for new or proposed rail rapid transit systems, thus producing a theoretical justification for taxes of a general nature.

As has been mentioned previously, there exists the serious question of whether an agency not directly responsible to the voters should have general taxing authority.<sup>16</sup>

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<sup>15</sup> J. R. Bartley, Manager, Northern Colorado Water Conservancy District, Conservancy District operation and Administration, a report presented to the Upper Missouri Water Users Association, December 12, 1963.

<sup>16</sup> In a majority of the cases decided, however, courts have upheld the constitutionality of a grant of taxing power to a regional agency with appointed directors, particularly if the voters of the district were given an opportunity to approve creation of the unit.

Principally for this reason, perhaps, any grant of taxing power to a regional agency usually has been quite carefully hedged with restrictions. The tax may be limited to a certain millage rate (a common device), or to some other exact levy on a taxable item (such as a per unit tax on households or automobiles). The regional agency may be required to obtain voter approval prior to imposing a tax. Use of a tax levy may be restricted to debt service purposes only, or its imposition may be limited to a start-up period. In an occasional instance the tax may be levied only until a certain sum has been obtained. A variation of the power to tax occurs in the occasional regional unit (such as the previously described Albany Port District Commission) which cannot impose a tax directly but may certify a budget deficit to its constituent communities, which must then levy an ad valorem property tax sufficient to produce the necessary revenue.<sup>17</sup>

### Property Taxes

The ad valorem property tax has the merit of being relatively straightforward in application and a proven revenue producer. It also has certain deficiencies, one of which is that its use by several regional agencies in an area where property taxation already is heavily relied on by local governments to meet their fiscal needs may result in very high overall millage rates.<sup>18</sup> (It should be noted that occasionally in a state aggregate tax limitations may affect the authority of a regional agency to levy a property tax.) In spite of the number of separate local jurisdictions encompassed by the typical multi-county regional agency no serious collection problems appear to have been encountered with the property tax. Actual collection of such a levy is almost never handled directly by the regional agency. It is normally the responsibility of counties or municipalities in the service area.

One problem which may complicate the levying of an ad valorem property tax in a regional service area is the fact that assessment ratios may vary in the several counties making up the district. In order to avoid inequities which clearly could spring up some method of developing and applying an equalization factor clearly is required. This can be and usually is taken care of by proper provisions in enabling or other legislation.

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<sup>17</sup> This is similar to a mandatory contribution by a local jurisdiction to a regional agency, which will be considered later in this report.

<sup>18</sup> In part of one region two area-wide transportation agencies are imposing overlapping property taxes.

To date regional agencies have made little or no use of the technique of establishing differential taxing districts within the total area served. In a large regional area encompassing perhaps several thousand square miles it is readily understandable that one sector might well benefit from a service to an extent appreciably greater than another. An example might be a transit agency offering intensive service within heavily populated zones of the total service area but only infrequent runs in sectors with low population densities. Fairness here might well dictate establishment of at least two graded taxing districts (the tax area boundaries could be changed, of course, if growth occurred and service was stepped-up in once-sparsely-settled sections). Other service units which might properly utilize differential taxing areas are those performing water, sewer and even library functions. The principal barrier to such a plan is the fact that most state constitutions require a uniform rate of taxation within a district.

### Non-Property Taxes

Various regional agencies have been granted the authority to levy (or the right to benefit from) a fairly broad range of non-property taxes. Proceeds from a one-half cent sales tax levied within the service area go to one regional transit agency, while another receives the income from a wheel-age tax imposed on each auto registered in its district. In Oregon area-wide transit districts have been given unusually broad taxing authority—they may levy property, net income, sales, use, business license and employer payroll taxes in order to raise funds to acquire, construct, operate and maintain mass transit systems. The newly-created Tri-County Metropolitan Transportation District in the Portland regional area has imposed a one-half percent tax on employer payrolls, which is expected to produce 9.1 million dollars per year. In the state of Washington metropolitan agencies and cities now can levy a household tax to support transportation programs. Beginning in 1971 Washington metropolitan agencies and cities also will have authority to levy for transit program use a one percent excise tax on motor vehicles owned by residents in their jurisdictions, which will then be offset against the total state excise tax on such vehicles. In the New Orleans area proceeds from a tax on hotel and motel rooms in a two-county district help pay for a stadium operation (in part this tax is a transfer of similar state and city levies). One regional agency makes use of a quite unique tax—a property levy which must be scaled to what a 50 cent per capita tax in the counties served would return. Since this levy is tied to the population count as shown by the last previous federal census, it has proved to be quite inadequate as a revenue producer even in an area experiencing rapid growth.

The authority to impose certain types of non-property taxes—for example, a levy on personal income or wages—is rarely granted to regional agencies. The power to levy corporate income, public utility gross receipts and motor fuel taxes also is seldom awarded to regional units. In considering possible new taxes the suggestion occasionally has been made that some form of incremental value tax or assessment be levied on

properties whose worth is significantly enhanced through the service rendered by a regional agency. The example of taxable potential most often used is that of the increase in value of property enjoyed as a result of construction nearby of a rapid transit facility. In theory there is reasonable sound justification, of course, for special taxation of great increases in value caused by the development of facilities paid for by public funds. However, significant legal and practical questions (including the none-too-easy problem of measuring with some degree of exactness the provable increase in value) make it difficult to foresee initiation to any substantial extent of such a tax in the immediate future.<sup>19</sup>

### Utilization of Taxes by Regional Agencies

There are several types of regional districts which rely to a greater or lesser extent on some form of general taxation to help meet their fiscal needs. First, there is the regional agency, usually newly established, operating most frequently in the transportation or water supply fields (and somewhat less often in sewage treatment or some other area of activity), which is constructing an enormously expensive capital facility requiring financing—such as a transportation district developing a multi-billion dollar rapid transit line. While such an agency may ultimately meet a substantial portion of its costs through user charges, because of the lead time involved in capital construction a number of years usually pass before a single fare is collected or a cubic foot of water sold. Obviously, for such a regional unit to maintain financial stability non-user charge financing would be required to defray costs of construction as they were incurred or to meet debt service requirements on bonds issued for such a purpose. This particularly would hold true for the transportation district, which would be furnishing a non-monopoly type of service.<sup>20</sup>

Example: The Bay Area Rapid Transit District was established in 1957 to construct and operate rapid transit facilities throughout a three-county area

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<sup>19</sup> An alternate suggestion occasionally made is that public agencies be given so-called excess condemnation power—that is, the authority to acquire much more land than actually needed for the construction of a public improvement. Following completion of the improvement the excess land—presumably greatly increased in value—would be sold, with the public body rather than a private owner receiving the benefit of the increment.

<sup>20</sup> It should be noted that proposals for financing rapid transit programs through broad general taxation were rejected during 1968 by the voters in the Atlanta, Seattle and Los Angeles regional areas.

in the San Francisco region.<sup>21</sup> It was clear that huge expenditures would be incurred over a period of a decade or more in designing and constructing the system, with no revenue from users anticipated during that time. The agency, therefore, was granted authority to levy on all property within the district an ad valorem tax without limit as to rate or amount for the purpose of meeting debt service charges on general obligation bonds issued to meet construction expenses. However, approval of program and financing proposals by the board of supervisors of each of the three member counties, plus a favorable vote of sixty percent of the electorate in the total district for all such general obligation bond issues was required. In November, 1962, voter authorization for a bond issue of \$792,000,000 was obtained and work begun. However, because of delays in initiating work (due primarily to litigation) plus inflationary trends and other factors costs of constructing the system skyrocketed, and additional revenue sources had to be found. The state of California thereupon in 1969 authorized the levy by the transit district of a one-half cent sales tax throughout its service area, to remain in effect until the net sum of \$150,000,000 was produced for capital improvements. The district also may issue revenue bonds, equipment trust certificates, or special assessment bonds. In addition to these financing sources, major federal grants were received for a variety of capital items, and funds from state agencies were made available to construct tubes under San Francisco Bay. In order to meet overhead expenses during the construction period the district was further authorized to levy an ad valorem property tax not exceeding one-half mill in the service area. If, when the system is operational farebox revenues do not meet overhead and operating costs plus debt service charges on revenue bonds, this property tax may be continued.

A second type of regional agency which relies heavily on general taxation is the unit providing a type of service or carrying on an activity for which user fees normally are not levied to any important extent. This may include service agencies such as libraries and regional park districts, which seldom obtain any large proportion of their budgets from direct user charges. It also may encompass certain units which perform regulatory-functions (such as air pollution control districts) and thus do not levy service charges.

Example: The Huron-Clinton Metropolitan Authority develops and operates parks and parkways in the river valleys and adjacent hills of a five-

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<sup>21</sup> Two other counties originally within the district withdrew.

county regional area surrounding metropolitan Detroit. To finance its capital and operating programs the agency relies primarily on its authority to certify to the five counties within its district an ad valorem tax rate not in excess of one-fourth mill. This tax is then levied and collected by each of the five counties and turned over to the authority. Miscellaneous revenues are obtained from such sources as boat rentals, bathhouse charges, food concessions, etc. (federal grants also have been received).

Example: The East Bay Regional Park District provides and operates park and recreation facilities in an area encompassing most of Alameda and Contra Costa counties in the San Francisco Bay area. Through enabling legislation the district is authorized to levy in its service area a tax of not over one mill to meet its basic expenses. It also receives income from such revenue-producing facilities as golf courses, swimming pools, food service, etc.

Example: The North Central Regional Library provides public library service to incorporated communities and rural areas throughout a five-county region in north-central Washington. Operating and minor capital expenditures of the agency are funded by a two-mill property tax levied for library purposes in the rural areas of the region plus equivalent contract payments for library services made by the participating incorporated jurisdictions. Major capital facilities such as buildings are provided by the participating communities. Limited state aid is received. The district has found its present financing program involving almost total dependence on property taxes to be inadequate to provide quality library service, and believes that new revenue sources are needed. However, the 1969 Washington legislature did not approve operating grants for public libraries.

Example: The Bay area Air Pollution Control District adopts and enforces regulations designed to control air pollution from stationary sources in a six-county area surrounding San Francisco Bay. In order to obtain the local funds needed for its operations the district may apportion to the counties constituting its service Area their respective shares of such necessary funds, based one-half on assessed valuation and one-half on population. The total amount apportioned during any one fiscal year may not exceed the equivalent of a .13 mill levy on the assessed valuation of all the property in the district. It can be seen, therefore, that the funds received by the district from constituent counties are partially in the nature of taxes and partially a type of mandatory contribution based on population. The agency also receives substantial federal assistance.

A third type of regional district which may rely to a greater or lesser degree on general taxation is the unit which primarily because of competitive factors would price itself out of the market if it passed on in the form of user charges the total cost of its program. Usually this type of agency operates in the transportation field, where with a dispersed service area, often somewhat obsolete capital equipment and high labor costs it must meet the competition of the private automobile. As has been noted previously regional agencies in the business of transporting people invariably require some type of supplement to farebox revenues if they are to continue furnishing satisfactory services to an area. It must be observed, however, that there has been some reluctance in the past to give regional transportation agencies which are providing only conventional motorbus service on public streets any permanent form of direct taxing authority. The tendency generally—although this appears now to be changing to some degree—has been to grant assistance through some form of subsidy by local or state governments, or at the most by a short-term regional-level tax.

Example: The Southern California Rapid Transit District provides motorbus service throughout most of Los Angeles County and in a few sections of three adjacent counties. In 1968 the agency was unable to secure voter approval of a general obligation bond issue, to be funded through a 1/2-cent sales tax in the service area, for construction of a rapid transit system. Since the agency was facing increasing budget difficulties due to labor costs and other factors the California legislature authorized it to levy in 1970 a one-time short-term (six month) sales and use tax in the overall area served by the district and by a few other small public bus lines (this was done without a referendum in the taxing area being required). The district and the other bus lines will be allowed to draw on the proceeds of the new tax only for actually incurred capital and operating budget deficits. It is anticipated, however, that these tax fund proceeds will be exhausted within three to four years, at which time further assistance to the district will be required if it is to maintain the present level of services.

The fourth type of regional unit utilizing general taxation to fund part (or, in an infrequent instance, all) of the cost of its program is the agency granted such taxing power on the ground that a broad-based financing scheme is required to reflect the benefit the entire area receives from the service rendered. Thus, even though service charges usually could be set at a level sufficient to fund the total cost of the program, this is not done. The reasoning behind this areawide distribution of the cost of a service has been discussed previously. Regional districts utilizing general taxation because of this rationale most frequently operate in field such as water supply, irrigation and conservation and sewage treatment, and occasionally in other service areas.

Example: The newly-created Gulf Coast Waste Disposal Authority (located in Southeastern Texas) has authority to operate in a number of areas involving water pollution control and waste disposal. The authority may, with approval of a majority of the district's taxpayers, levy and collect an ad valorem maintenance tax of up to one mill and issue tax-supported bonds. It also is empowered to establish and collect fees and charges for its services.

Example: The Minneapolis-St. Paul Metropolitan Airports Commission may levy (through certification to the county auditor of the amount to be raised) an ad valorem tax on private property located within the boundaries of the major airport facility. Proceeds of this tax are used to provide police and fire protection, road construction and maintenance and parking facilities in the airport area. The commission also receives rental and concession income plus state and federal aid. In addition it may certify deficits incurred in its operating or debt service accounts to the cities of St. Paul and Minneapolis, which must levy property taxes to obtain the amount required. (This levy is no longer used).

### C. Bond Financing

A substantial proportion of regional agencies are required to construct (or purchase) expensive capital facilities in order to successfully execute their programs. Park commissions acquire and develop large tracts of land; water districts impound reservoirs and build aqueducts and filtration plants; public power districts erect electric generating plants and transmission facilities; and mass transit agencies lay down costly lines and buy rolling stock—to cite but a few examples. In only an infrequent case—and almost never in the instance of a newly-created unit—can such agencies pay for all or most of the cost of large capital projects from funds previously set aside or from current income. Occasionally a long-established district has on hand substantial depreciation reserves or other accumulated funds which can be used to underwrite the expense of new construction, and at times a unit will be able to generate sufficient funds from user charges, taxes, or other revenue sources to pay for a facility as it is being built. Grants from other levels of government are playing an increasingly important role in this area, also. In the great majority of cases, however, regional agencies must issue either general obligation or revenue bonds to fund the bulk of the cost of new or expanded capital facilities.

The importance of bond issues (and closely-related borrowing devices, such as short-term loans and bond anticipation notes) as a means of financing capital programs readily can be noted by an examination of the outstanding debt of a few regional agencies. Three port authorities had outstanding net debt in 1969 of \$150 million, \$1,085 million and \$140 million respectively (in round figures), and two mass transit agencies \$30 million and \$792 million. Numerous regional sewer, water and public power districts also had very large outstanding indebtedness. On the other hand a fair proportion (but less than half) of the regional park districts and practically all library, mosquito abatement and air pollution control agencies had no bonded indebtedness whatever. Those park districts which were free of debt clearly were making every effort to develop their major facilities on a pay-as-you-go basis; whereas the regional library, mosquito and air pollution units either were utilizing capital facilities of another governmental agency or simply not incurring any substantial expenditure in this category. However, at least one of the park districts which was debt free noted its inability to fully meet the needs of the region served under its present program. The bulk of the indebtedness incurred by regional agencies is long-term, with repayment scheduled over a 15 to 50 year total period. Bonds usually are of a serial nature, although occasionally term bonds with sinking fund provisions are used.

The key role played by bond issues in the funding of major capital projects, however, should not minimize the fact that agencies having the capacity to do so have found it highly desirable to develop out of income reserves to aid in such financing. Thus the Sacramento Municipal Utility District (which serves sections of two counties) has been able to avoid peak interest periods in the municipal bond market by utilizing deprecia-

tion reserves and other internally generated funds to meet the cost of a considerable proportion of its new construction.

### Types of Bonds and Their Use

A substantial majority of regional agencies have the legal authority to incur long term indebtedness through the issuance of bonds. This power usually is granted in the special acts or general enabling legislation by which the units are formed. However, only about half of these agencies can issue so-called general obligation bonds—the balance are restricted to the utilization of revenue bonds (some are authorized to issue both). Since these two types of debt instruments vary widely in nature a somewhat detailed discussion of each is required.

General obligation bonds purport to place behind the promise to pay the debt the so-called full faith and credit of the agency involved. In effect this almost invariably means that the regional district has the power to levy ad valorem property taxes without limit as to rate or amount in order to repay the sum owed. Unless the district has a massive direct or overlapping (due to obligations of other governmental units in the region) debt structure, or a history of default on its obligations, this normally will provide sufficient security to make the bonds marketable. If the regional agency is newly-created, has only limited assessed valuation which can be taxed or suffers from the other deficiencies mentioned above it may be necessary for some other level of government to guarantee the bonds, or even issue them on behalf of the agency. It should be noted that certain agencies will rely basically on income other than ad valorem taxes to repay general obligation bonds—but the taxing power is constantly available for back-up purposes if needed. A few regional agencies have issued bonds which are termed “general obligation in nature.” Usually these are regional units providing such services as sewage treatment to a number of local municipalities, each of which in turn has a binding legal obligation to raise funds from taxes or other sources to pay its proportionate share of the total cost of the service (including debt repayment).

The revenue bond can be differentiated from the general obligation variety in that normally the only source to which the purchaser of the revenue bond can look for repayment is the money earned by the agency through the service or facility developed from bond proceeds. This may be adequate security in the case of a strong, well established agency planning to provide a much-desired public service which, based on careful economic feasibility studies, will swiftly produce more than enough earnings to meet operating and bond repayment expenses (this would provide a so-called “coverage factor,” usually felt highly desirable). Certain services—particularly those whose use is virtually mandatory—may well meet this test. However, as has been noted earlier there are relatively few regional services which can achieve this goal, at least immediately. As a result, methods of strengthening many revenue bonds must be found if the security is to be sold at a reasonable interest rate—or, in many instances, if it is to be marketed at all.

If the earnings of the new facility will be insufficient to meet debt repayment charges for only a very brief initial period (a few months or a year) it might be possible to increase the size of the bond issue to a level sufficient to fund such deficits. Capitalizing of early deficits generally is not viewed as a sound practice, however. If for debt service purposes the agency can pool the revenues of the new function with those of another activity having an excellent earnings record over the years, this would produce a sound solution. A consolidated bond issue with debt service payable from the combined revenues of all agency functions has been a frequently-used method of achieving such a goal.

Guarantees of the bonds of a regional agency by a well-established governmental unit occasionally has been utilized as a method of giving stability to somewhat less firmly-based issues. However, such a method is not always easily achieved, nor has it met with the unqualified approval of the financial community. In view of the unique nature of a regional agency plus its multi-county status it is usually quite difficult to find within its boundaries a governmental unit having both the fiscal resources and the willingness to guarantee repayment of a debt. Occasionally, however, this does occur. One example is found in an arrangement developed by the Southeastern Pennsylvania Transportation Authority (SEPTA) and the city of Philadelphia, whereby the city through a lease and leaseback arrangement with the authority in effect guarantees the debt service on bonds issued by SEPTA to purchase certain transportation facilities. A somewhat different approach used in another important Eastern region also should be mentioned.

Example: In the Pittsburgh regional area the Port Authority of Allegheny County was established to provide public transportation service for Allegheny and (to a limited extent) four adjacent counties. The authority has financed its capital expenditures (consisting primarily of the acquisition of rolling stock and other facilities from private bus lines plus the outright purchase of new busses) largely through short-term bonds and bank loans. While the bonds were issued and the loans made by the Port Authority, under terms of an agreement between the authority and Allegheny County the county in effect covenanted to pay debt service and interest charges in all cases except when the authority had earnings above a stated level. Since the authority has been operating at a deficit the net effect of the financing plan to date has been to obligate the county to meet all debt and interest payments. Apart from its obligations under the agreement Allegheny County also has helped underwrite operating deficits of the authority. The authority in addition has obtained federal and state grants to help fund various programs.

In a few other instances local jurisdictions also guarantee regional agency bonds. Issues of the Maryland-National Capital Park and Planning Commission are guaranteed by the counties within its service area. Bonds of the Minneapolis-St. Paul Metropolitan Airports Commission are backed by the full faith and credit of the two sponsoring cities. Many cities or counties in metropolitan areas appear to be too hard-pressed financially, however, to assume such roles as the ones described above.

State governments, when legally possible, also occasionally enter into arrangements whereby they guarantee repayment of revenue bonds of a regional service district.<sup>22</sup> An example of this is found in the rather unusual procedure by which the state of New York through repayment guarantees places its financial resources behind bonds issued to make possible the purchase of rolling stock for certain railroads furnishing commuter service in the state's principal metropolitan region. The state has utilized the Port of New York Authority as agent to issue up to \$100,000,000 in commuter car bonds, the proceeds of which are used to purchase passenger cars and other units for lease to rail agencies serving the New York City regional area. The rail agencies, under terms of an agreement, then pay to the Port Authority periodically a sum sufficient to meet principal and interest due on the bonds. If full payment for any reason is not made the state of New York is required to make available immediately out of its general fund revenues a sum sufficient to cover the deficiency. The Port Authority acts only as an intermediary in the transaction, having no obligation to utilize its own resources to meet a payment deficit. It should be noted that an amendment of the New York Constitution was required to permit the state government to make such a guarantee. Through a variety of somewhat similar techniques New York State also assists local communities under its Pure Waters Program in temporary and long-term financing of sewage treatment plants. One or two additional states have developed other interesting methods of assisting regional units in meeting debt service payments on high-cost facilities.

Example: Bonds issued by the Louisiana Stadium and Exposition Commission for a stadium-convention center complex serving the New Orleans regional area are secured by a lease with the state of Louisiana. Under terms of this lease the state receives all revenues of the commission (including user charges and the special tax—described earlier in this report—which is levied on hotel and motel rooms in a two-county service area),

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<sup>22</sup> State constitutions may expressly prohibit state governments from lending their credit or even making contributions to any of their political subdivisions. This prohibition may apply to county governments also, as subdivisions of the state. See Michigan Constitution, Article IX, Section 18. Constitutional inhibitions on local governments lending credit or making grants of money to regional or other special districts also occasionally exist.

and must pay all its expenses including debt service on the bonds. The full faith and credit of the state of Louisiana has not been placed behind the commission bonds—merely the security of the lease agreement.<sup>23</sup>

The most obvious method of strengthening a revenue bond issue is by granting to a regional agency authority to levy some type of general tax within its boundaries whenever needed to supplement the facility earnings from which debt service normally is paid. Such back-up taxing power, even if seldom or never used, clearly will improve the saleability of a revenue issue and undoubtedly reduce the interest rate which must be paid. As was mentioned earlier the Bay Area Rapid Transit District has such taxing authority to help meet debt service on revenue bonds issued to pay for rolling stock if farebox revenues are insufficient for such a purpose (the district also is capitalizing early interest payments on these bonds to provide an additional margin of safety). In most instances where general taxes (particularly property taxes) are authorized to help meet debt service it might be expected that regional agencies would simply issue general obligation rather than revenue bonds. This may not always be possible, however, due to debt limitations or the necessity of obtaining voter approval for a general obligation issue.

### Restrictions on Issuance of Bonds

Numerous provisions are found in enabling and other legislation restricting in various ways the power of regional agencies to issue bonds or other debt instruments. In many instances regional units must secure approval of the voters of the district for the issuance of bonds. Such acquiescence is required in a large percentage of cases where general obligation bonds are to be utilized, but occasionally is necessary also for revenue bond issues. Often more than a simple majority of those voting is mandated—for example, a proposal authorizing the issuance of \$385 million in general obligation bonds for public transportation purposes in the Seattle Metropolitan Area recently received the approval of 50.7 percent of the voters, but failed because Washington law required 60 percent voter approval for such issues.<sup>24</sup> The Bay Area Rapid Transit District also was required to secure 60 percent voter approval for its general obligation issue, and was able to do so. Much less frequently a regional agency may be required to obtain voter approval for a bond issue in each governmental subdivision within the district.

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<sup>23</sup> Legality of this procedure presently is being litigated in the United States Supreme Court.

<sup>24</sup> The requirement of approval of an extraordinary majority of voters as a prerequisite for issuance of bonds presently is under legal challenge on the basis that it denies each voter the right to cast a ballot of equal weight.

Another factor limiting the authority of regional agencies to issue bonds is legislation found in many states imposing a maximum annual interest rate which may be paid for money borrowed. In a period when money is tight many agencies may be unable to market securities—particularly revenue bond issues—at an interest rate within the legal maximum (it also should be mentioned that apart from legal restrictions on interest rates, unusually high rates dictated by market conditions may as a practical matter make it impossible for agencies to meet debt service requirements on bond issues—especially those which depend solely on earnings of a facility for repayment). A factor somewhat akin to interest rates restrictions in its effect on the ability of agencies to utilize bonds for financing purposes is a limitation on the final maturity date of a bond issue. Such a provision, frequently found in enabling or general state legislation, may restrict the life of bond issues to a specific number of years—say 20 or 30—from date of issuance. A relatively short maturity date occasionally may make it difficult for an agency to meet the resulting large annual debt service demands. Other provisions regulating details of repayment of a bond issue are less common.

A major limitation on an agency's power to issue general obligation (and infrequently revenue) bonds is one found in state statutes and even state constitutions restricting the total amount of indebtedness which may be incurred by the unit. Normally this is done by limiting the maximum allowable debt of the agency to a specified percentage of overall assessed valuation of real property in the district. These debt controls usually are intended to protect both the holders of bonds and the jurisdiction issuing the debt instruments from the potential dangers of an overextended debt structure. Such restrictions, of course, are common in the municipal field, where they frequently are combined with certain referendum requirements (a city, for example, often may be permitted to issue bonds of no more than two percent of assessed valuation upon action of its governing body, and an additional five percent upon voter approval). An example of a restriction on a regional agency is found in the legislation authorizing creation and operation of the Bay Area Rapid Transit District, which provides that the district may not incur general obligation bonded indebtedness in an amount exceeding 15 percent of the total assessed valuation of taxable property within the district. It should be noted, however, that this provision has not unduly restricted the Transit District's ability to borrow—in 1969 its debt was substantially greater than the total indebtedness of all other local governmental agencies in its three-county service area combined (including counties, cities, school districts and special units). The Southern California Water District's debt limitation also is 15 percent of assessed valuation. In the case of many other regional agencies a much more strict debt limitation is imposed. The Metropolitan District of the Hartford, Connecticut area may issue bonds not in excess of five percent of the combined grand list of the district (with certain exceptions). The Port of Portland may issue general obligation bonds up to five percent of assessed value in its district, but not to exceed \$2 million in any one year (it has no limitation on revenue bonds). If no provision restricting debt is found in the enabling or other legislation by which a regional agency is created, courts may hold that the unit is bound by debt

limitations applicable generally to local governments in that state. Once an agency's debt limitation has been reached it normally must delay issuance of additional bonds until a portion of its existing debt has been repaid or the assessed valuation in its district has increased.

In view of the growth of regional and subregional service agencies which encompass a number of local jurisdictions, plus the substantial indebtedness incurred by some units, it would not be surprising if efforts had been made constitutionally or legislatively to impose some form of overlapping debt limitation on governmental units in a specific area. Despite the concern expressed by some observers about the dangers of a large overlapping debt being created by numerous special districts, however, there has been little effort to date to impose such a restriction. The South Carolina Constitution does restrict the several political divisions covering a common territory to an aggregate debt limitation of 15 percent of the value of taxable property therein. Through judicial decisions exempting many types of governmental units in that state from such proscription it now appears to be of limited importance. A truly effective limitation, however, could cause definite problems. The most recently established unit might well find its bonding capacity highly restricted, even though its program was of vital importance. It thus could be compelled to curtail its activities or utilize some relatively unsound financing device. It is probable that only through a central coordinating agency could an effective and fair means of controlling total indebtedness of all special districts within a region be developed.

### Centralizing the Issuance of Bonds

As mentioned previously, the multi-county regional agency occupies an anomalous position on the American governmental scene. Because of this the question has been raised from time to time whether such an agency can efficiently and soundly market bonds and other debt instruments on an independent basis, or if some more well established unit of government might be better equipped to undertake such a function for it. If the latter, the responsibility might be assigned to one of three alternative bodies—a large local government within the territory served by the regional agency, an area-wide unit such as a regional government, or the state government. It should be made clear, however, that in many states one governmental agency cannot lend its credit to another, thus making such a plan impossible (at least in the instance of state and municipal bodies).

In an infrequent instance a major local jurisdiction within the regional district has undertaken to issue bonds for the area-wide unit. Thus Milwaukee County sells bonds to finance the capital program of the Metropolitan Sewerage District of the County of Milwaukee (the district provides some sewer service for several adjacent counties as well as Milwaukee County itself, and therefore has regional features). However, since the Sewerage District is very nearly coterminous with Milwaukee County such an

arrangement is readily understandable. In instances where a regional agency covers several counties there is little evidence of this technique being used. An occasional health, hospital or library district may utilize a somewhat related arrangement whereby a local jurisdiction issues bonds to construct a building made available for regional district use. The very limited utilization of a city or county located within a regional district as agent for the issuance of the district's bonds is not particularly surprising. The local Jurisdiction normally will have a smaller overall assessed valuation than the regional district to back general obligation bonds, and it also may be required to keep within a strict debt limitation.

The issuance by a state government of bonds for all regional agencies and other special districts located within its boundaries—and perhaps for certain other local jurisdictions as well—appears to offer many significant advantages. The typical state government can be expected to have a far more firmly established reputation with prospective investors than the usual regional agency, and normally will have a much stronger credit rating. It should, therefore, assuming that it fully guarantees the security, be able to obtain a lower interest rate and more favorable repayment terms on long or short-term borrowing than can the regional district. Since a state government will be issuing bonds frequently for its own purposes as well the cost of processing each issue should be low. In addition, arrangements might be worked out for the state government to incorporate certain subsidies in conjunction with the bond-issuing process—such as the supplementing of possible earnings deficiencies in revenue bond issues or the underwriting completely or in part of the cost of any excess capacity of a regional facility during the years it was not being utilized. Clearly some problems would arise if the state government performed the function of issuing and guaranteeing repayment of regional and special district bonds and perhaps in addition the partial subsidization of debt service requirements. The state, since its credit would be involved, presumably would seek the authority to examine—and perhaps even supervise—fiscal and certain other policies and activities of the regional agency. Not all regional districts could be expected to welcome such control. Some degree of expense to the state would be involved, particularly if subsidies were incorporated in bond issues. If the regional and other special districts thus assisted all were located in one or two sections of the state, this well might result in criticism from other areas.

Across America state governments in a few instances are issuing bonds for regional districts. Agencies receiving such assistance are the Metropolitan District Commission of the Greater Boston Area (the Commonwealth of Massachusetts issues all the district's bonds, on which it (the Commonwealth) is in the first instance responsible but is reimbursed for all payments by the district or its member jurisdictions), and the Palisades Interstate Park Commission of New York-New Jersey (the state of New York issues bonds for the commission, with debt service charges financed from a variety of sources). Both of the above agencies, it should be noted, are practically constituent units of their respective state governments. The state of Louisiana will issue and meet debt service charges on all future bonds for the Port of New Orleans. In the area of

indirect bonding assistance, the massive one billion dollar mass transit bond issue of New York State is being utilized to assist transportation agencies across the state with their capital programs. Also, as was mentioned previously, the state of New York under its Pure Waters Program will issue bonds to finance the construction of sewage treatment plants for local jurisdictions which, due to size or limited fiscal capacity, would encounter serious problems in handling their own debt financing.

No truly regional agency exists in America at the present time with the authority to act as a centralized debt financing unit for all regional and other special districts in the overall area. The Metropolitan Council of the Twin Cities area, described earlier, does issue bonds for the sewer agency serving the region (the full faith and credit of the total metropolitan area is placed behind the bonds). Other financing by one agency for another has been on an ad hoc basis—such as the previously noted example of the Port of New York Authority being utilized as the financing agent for commuter cars needed by regional rail transit lines in the New York City area. The most important advance in this field has occurred in the Toronto, Canada area where the Municipality of Metropolitan Toronto issues debentures (bonds) for its own purposes and for all local governments, school districts and semi-autonomous agencies (such as the Toronto Transportation Commission) within its jurisdiction. Each project to be financed through a bond issue also requires the approval of the Ontario Municipal Board. All such bonds are direct, joint and several obligations of the Metropolitan Municipality and of the area municipalities. This procedure clearly strengthens greatly the capacity of each local community to obtain financing for its capital projects, and without a doubt enables the securing of quite favorable interest rates (it is estimated that many millions of dollars have been saved in interest costs since the plan went into effect). In addition it gives the metropolitan government the power to regulate and assign priorities to all capital programs of units within its boundaries, and to insure that total capital expenditures for the area are kept within the limit for sound bond financing. It must be noted, however, that the Municipality of Metropolitan Toronto is a closely-knit metropolitan government, created by the Province (State) of Ontario without a local popular referendum or the assent of local municipal governments. It also encompasses an area of substantially less than one county in extent. In spite of these qualifying factors this approach deserves careful examination as a possible model in at least certain respects for any regional government which may be established in America.<sup>25</sup> Such a centralization of

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<sup>25</sup> The two new regional governments found in the Province of Ontario, Ottawa Carleton and Niagara, also have authority to issue debentures both for their own purposes and for all local units of government within the area. These two governments were formed so recently, however, that they have had little or no opportunity to exercise this function and note its effect.

borrowing in a region, however, if extended to include all local governments and school districts as well as special units, clearly would run counter to the strong home rule tradition existing in many American states and embodied in some state constitutions. In addition it might well be argued that the state government—which could perform the function on a much more broad scale, and which presumably would wish to review most bond proposals under any circumstances—would be the more logical choice as a central financing agency.

#### D. Assistance From Governments in the Region

Regional service agencies, functioning as they do in broad geographic areas, to a substantial degree operate independently of the many governmental jurisdictions located therein. However, this should not be interpreted to mean that the cities, counties and other governmental units in the service area are not vitally interested in seeing that the regional agency performs its functions adequately. In the field of mass transportation, for example, the major city in a regional area normally will be concerned not only that its own citizens be provided with this essential service, but that persons living throughout the metropolitan district be enabled to reach the central city for purposes of business or pleasure swiftly and efficiently. Similarly, in a regional library district a relatively small community whose citizens have had little or no access to library facilities in earlier years often will exhibit a strong desire to see the new program developed so that the best possible service is rendered in that jurisdiction. Consequently, there has been a decided tendency in recent years, particularly if the regional service agency in question appears under-financed and therefore faced with the possible necessity of reducing its program, for local jurisdictions to give substantial assistance to the area unit. This aid may be in the form of direct financial grants, indirect fiscal aid (such as guarantees or other devices intended to strengthen borrowing capacity), the supplying of services at a reduced or zero cost, or the provision of capital facilities for use by the regional district. In most (but not all) instances the legality of such assistance, if challenged by a dissenting taxpayer on the ground that it constitutes a use of public funds for an improper purpose, appears to have been upheld.

#### Mandatory Assistance

One form of assistance to regional agencies from local units of government is basically mandatory in nature, and constitutes little more than a charge on each individual jurisdiction for services furnished. This occurs when the area unit, after having utilized all other possible sources of revenue to meet its expenses, is authorized to assess any remaining deficiency against the various jurisdictions making up its service area. While it often may be intended by the legislators who authorize such a financing program for a regional agency that deficiency charges are to be utilized only under exceptional circumstances, in many instances such assessments quickly become a major factor in the unit's budget—sometimes to the unhappiness of the participating local jurisdictions. An example of this form of local fiscal aid is found in the Boston region, where the Massachusetts Bay Transportation Authority may assess against the communities in the service area any ultimate deficit incurred in supplying certain types of service. The deficit assessed has increased substantially in recent years, and may go as high as \$34 million in 1969-70. The authority itself agrees that this constitutes a very heavy burden on the local jurisdictions, and believes that some means of relief ultimately must be found.

Somewhat similar methods are presently utilized or are being considered for use in one or two other regional areas to fund transportation agency deficits. Thus the Long Island Railroad (now a public agency since its purchase by New York State) obtains a form of subsidy from counties and cities served by assessing against such local jurisdictions a fee for station operation and maintenance. The total amount charged is substantial, in some years approaching ten million dollars.

In the Province of Ontario, Canada, regional conservation authorities (normally established by voluntary joint action of a number of communities located in a watershed area) may assess each local jurisdiction located within the area served for a variety of expenses. The cost of capital projects and their subsequent maintenance is charged against member communities on the basis of benefit received. Administrative expenses of the authority are levied in proportion to the equalized value of property in the local jurisdictions. Provincial grants also are received by these units to assist in the funding of projects.

### Voluntary Local Assistance

A second form of aid by the various local jurisdictions to regional agencies is voluntary in nature, given because of a strong desire by such governments to see adequate services provided. Once again by far the greatest concentration of such assistance is found in the area of public transportation, and consists of aid for both capital improvements and operating costs of various agencies. Thus the city of New York—hard pressed financially itself—nevertheless has assisted the New York City Transit Authority (now a division of a regional agency) over a period of years by underwriting the cost of the large Transit Authority police force. The Southeastern Pennsylvania Transportation Authority receives assistance in several forms from cities and counties within its service area, including (together with items previously discussed) payments for transit services rendered various areas. The Delaware River Port Authority enjoys the opportunity to lease municipal facilities at favorable rates. The Allegheny County Port Authority receives grants from Allegheny County to help fund annual operating deficits. The city of Chicago has expended substantial sums of money both in the construction of transit lines and stations and in the purchase of rolling stock for the Chicago Transit Authority. The Bay Area Rapid Transit District has been joined by the cities of San Francisco and Oakland in the development of certain joint facilities (however, each unit is paying its own share of the cost). The Kansas City Area Transportation Authority received substantial contributions from cities and counties in its service area toward the cost of acquiring certain private transit lines. The city of Cleveland developed parking lots and Cuyahoga County erected bridge structures to serve the Cleveland Transit System's new rapid transit line to the airport. The Southern California Rapid Transit District received loans from Los Angeles County to assist in establishing itself as a new agency. A relatively new regional transit district in an Eastern area uses an interesting approach:

Example: The Washington Metropolitan Area Transit Authority was created in 1967 by interstate compact for the primary purpose of developing and operating a 97-mile network of rail rapid transit facilities to serve a regional area consisting of the District of Columbia plus certain Maryland and Virginia counties and cities. Approximately two-thirds of the estimated \$2.55 billion capital cost will be financed from grants by the federal government and the local jurisdictions. One-third of the capital cost is to be financed by issuance of revenue bonds secured by a pledge of the gross revenues of the transit system. While it is hoped that income from this source will be sufficient to meet both revenue bond debt service charges and operating costs, nevertheless it was deemed prudent to provide for supplementary aid in meeting operating expenses in the event revenues did not achieve expectations. This was done through the authority entering into long-term service contracts with local jurisdictions and suburban transit agencies, under the terms of which (in exchange for certain guaranteed services) the local entities would pay an allocated share of any deficiency in revenue (this program thus carries with it aspects of both voluntary and mandatory local assistance, plus purchase of services).

In other fields of activity local assistance to regional service agencies has been of lesser significance but occasionally is worthy of notice. In the refuse disposal field Los Angeles County has advanced money to sanitary land fill sites. The county now intends to place the repayments (obtained from service charges established at a level sufficient to pay all operating expenses and reimburse the original capital cost) in a revolving trust fund, thus making available a self-renewing pool of money for land fill site acquisition. The four-county Sandhill Regional Library in North Carolina receives grants toward cost of operations from counties in its service area, with the county governments also supplying such items as buildings and bookmobiles. The Tidewater Virginia Development Council (Norfolk Regional Area) receives dues (based on population) from member cities to finance an industrial development program for the area. County governments in two or more states grant aid to regional air pollution control agencies. Regional law enforcement programs (involving primarily police and emergency communications networks) in several areas are financed through charges assessed against the participating county and city governments. One or two regional airport authorities receive assistance from member cities or counties, usually to help fund capital improvements or assist in meeting debt service payments on bonds (the Tri-City Airport in the Saginaw, Michigan area is an example).

One indirect form of a subsidy received from local jurisdictions by many regional units is freedom from local taxes. This has been criticized on occasion, particularly if the regional agency is large, has major property holdings and is highly solvent. On the other hand a certain number of regional units provide at their own expense services normally considered municipal in nature, such as police and fire protection.

Mention also should be made of the question of reimbursement which arises when a regional agency, usually on assuming a new service function, takes over capital facilities formerly belonging to a local jurisdiction. In many instances provision is made for payment to the local unit of fair compensation for its equity in the facility; however, in some cases no indemnity is granted. An example of a compensated acquisition can be found in the Minneapolis-St. Paul area, where the Metropolitan Council and its new Sewer Board are required to assign dollar credit to municipalities owning an equity in certain sewage collection and treatment facilities awarded to the Metropolitan Unit. Similarly the municipality of Metropolitan Seattle was obligated to pay local communities for facilities taken. Following establishment of the Municipality of Metropolitan Toronto, on the other hand, the new Metropolitan Corporation on assuming as part of the metropolitan system a waterworks or sewer facility belonging to a local jurisdiction was not required to grant compensation or pay damages therefor (it was, however, required to assume payment of any outstanding municipal debt attributable to the facility). In certain states eligibility for payment may depend on whether the facility was used for a governmental or a proprietary purpose—often not easily determined.

## E. Assistance From State Governments

An important trend in recent years in the field of regional affairs has been the substantial increase in financial aid granted by state governments to area-wide service agencies. This assistance has taken a number of forms—grants from state general funds or from special trust funds; allocation of all or part of the proceeds of a special state tax (or more infrequently a user charge) to regional agencies for specific purposes; assistance through the issuance of bonds, bond guarantees or payment of all or a portion of debt service (previously discussed in some detail); loans to make studies or initiate programs; payments to reimburse losses suffered through the provision of services at a reduced rate to a specific class of users; and aid in the development of certain joint facilities. In occasional instances, as was mentioned previously, state governments have directly provided services in a regional area or developed bi-state programs to do so.

In earlier years state assistance to regional agencies was almost entirely earmarked for the carrying out of capital projects. While this is changing to some extent, with more states beginning to grant aid for operating costs as well, there still exists a degree of reluctance on the part of many state governments to become deeply involved in supplying funds for day-to-day expenses of regional units. Unquestionably this is due to two principal factors—concern by the state about entering into a commitment which may become open-ended through the years, and a disinclination to underwrite expenses of an operation over which it may have little control. Grants for capital improvements on the other hand usually are finite in nature, do not require a (sometimes agonizing) yearly appraisal of an agency's program and fiscal status, and also have the merit of being highly visible.

Use of general state funds to assist programs restricted to one or two regional districts obviously may be open to a degree of criticism. Clearly voters throughout a state could well object to the use of broad-based tax revenues for financing functions carried on only in limited areas. However, breakdowns or near-breakdowns in key services such as transportation, water supply or sewage collection and treatment in regional areas encompassing large urban centers could result in such serious consequences that state governments have been compelled to take action. In addition, many aid programs can be developed on a statewide basis, particularly in such fields as sewage treatment and libraries, thus spreading potential benefits. Other services financed through state assistance—such as regional parks—obviously will serve people from wide areas.

### Types of State Assistance

Because of the critical nature of the public transportation problem in many regions it is not surprising that a wide variety of state programs to aid area-wide transit agencies have been developed. The state of Massachusetts now allocates the bulk of the proceeds of the state-wide two-cent additional cigarette tax to the Massachusetts Bay

Transportation Authority as “contract assistance,” to help pay debt charges and certain service costs. New York State makes grants from its billion-dollar mass transportation bond issue (described earlier in this report) to regional transit agencies to finance a major part of the cost of their capital improvements, and plans to underwrite certain transit-operating deficiencies on commuter rail lines. Proceeds of an increase in the state mortgage recording tax also will be available to aid transit programs. The state of New Jersey, through its Department of Transportation,<sup>26</sup> enters into assistance contracts with commuter railroads by which operating subsidies are given in exchange for performance of specified services at a fixed level of fares. New Jersey also makes capital grants to regional transportation agencies and purchases transit equipment for use on commuter railways from its recently approved \$200 million public transportation bond issue (examples of specific programs are a three million dollar grant to the Delaware River Port Authority to assist in the construction of the Lindenwold rapid transit line, and the purchase of commuter cars for operation on certain railroads). The state also is developing parking lots to provide “park and ride” service to commuters. The state of California’s Toll Bridge Authority has assisted the Bay Area Rapid Transit District through construction for the District through construction for the District of the Trans-Bay Tube beneath San Francisco Bay (tolls on the Bay Bridge were increased by the bridge authority to help meet debt service costs on bonds issued to finance the Tube).<sup>27</sup> The state of Pennsylvania makes both capital and operating grants to regional and other transportation agencies throughout the state (operating grants are awarded through “purchase of service” contracts). Mention previously has been made of the state of Washington’s plan to relinquish to local agencies for transportation purposes part of the state excise tax on automobiles. In Canada the Province of Ontario assists in the construction of rapid transit lines by paying one-third (shortly to be increased to one-half) of the cost of constructing the basic transit tube. The rationale for such aid is that development of rapid transit facilities reduces the need for construction for highways. A somewhat similar approach is being followed in Illinois, where counties and cities

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<sup>26</sup> An increasing number of states are establishing departments of transportation, thereby centralizing administrative and fiscal control of all programs dealing with the movement of people and goods—including highways toll turnpikes and bridges, public transportation facilities and airports. The New Jersey Department, established in 1966, is an example of such a unit. One of its divisions is a Commuter Operating Agency, which on a continuing basis investigates the standards of rail and bus service provided for commuters and determines what action is required to maintain and improve such operations.

<sup>27</sup> Conversely, in order to minimize cost by joint construction of facilities, the Bay Area Rapid Transit District has advanced all funds needed to construct a joint state expressway-rapid transit facility. Ultimately the state of California will repay to BART its share of the cost of such construction.

now are permitted to utilize a portion of state gas tax funds to assist public transportation programs. Illinois and one or two other states also reimburse regional transit agencies for deficits created by transportation of school children at reduced fares. Several states (California and Missouri are examples) have from time to time granted or loaned funds to area transportation units to meet initial organization expenses, develop plans, and carry on experimental or demonstration projects.

Reflecting the growing concern over water pollution, a number of state governments have made capital grants to regional agencies to assist in meeting the cost of construction sewage collection and treatment facilities. At least one state (Wisconsin) aids sewer districts in meeting interest costs on bonds. A relatively small number of states assist sewer agencies in defraying costs of operation. In the area of water supply state assistance has been more limited, although the state of California is indirectly aiding regional water districts by the construction of major aqueducts and pipelines to transmit water over great distances. State aid has been given to at least one regional flood control district.

Regional port authorities occasionally are granted assistance by state governments, undoubtedly on the basis that such agencies benefit a broad surrounding area. Thus the Maryland Port Authority (which operates port facilities in Baltimore and carries on certain related functions such as trade development) receives the proceeds of a 3/4 of one percent statewide corporate income tax to finance its activities. A statewide ad valorem property tax also may be levied if additional funds are needed to meet authority debt service charges. The state of Pennsylvania agreed to appropriate \$600,000 per year to the Philadelphia Port Corporation during the first 12 years of its existence (at the end of this period the port corporation is expected to be self-sustaining). Certain Louisiana state gas tax revenues have been made available in past years to the Port of New Orleans to help meet debt service charges on bonds. Bridge, ferry and tunnel districts—again presumably because of wide-scale use of such facilities—also at times are given state aid. Louisiana has assumed the cost of operations, maintenance and debt service on bridge and ferry facilities of the Mississippi River Bridge Authority, at the same time removing all toll charges. Regional airports often receive state assistance for capital improvements, but much less frequently to meet operating costs. In several states—Connecticut is an example—the state government has assumed the total cost of operating a number of regional-type airports which together serve the entire state.

One or two states assist regional park agencies in their programs (this relatively modest degree of aid can be explained by the fact that most states themselves maintain extensive park facilities). Regional libraries in most instances receive state government assistance, with the basis for grants varying. Aid given libraries on a fixed per capita basis calculated on the previous decennial census has proved inadequate as a revenue source during an inflationary period. It is interesting to note that in at least one jurisdiction—New York—the entire state now has been divided into regional library districts, with each receiving state assistance.

Example: The Pioneer Library System serves five counties in the Rochester, New York, region. It is a loosely federated structure, superimposed on existing county library systems. Through a somewhat complex series of agreements library systems of the four rural-type counties in the regional unit contract with the library system of the single urbanized county for certain library services with the urban county system in turn contracting with the public library of the city of Rochester for the actual performance of most of these services. The total cost of the regional program is underwritten by state of New York grants (which are structured in a manner designed to encourage the development of multi-county regional library systems).

Certain large city libraries also occasionally receive direct state grants to fund the provision of special services to a region. Thus the Carnegie Library of Pittsburgh is granted funds by the state of Pennsylvania to furnish library services to the blind in the western section of that state.

In the regulatory field it should be noted that in several cases state governments are granting a considerable amount of assistance to regional air pollution control agencies. Thus in Oregon the state grants up to 50 percent of the total contributions of the three counties which make up the Columbia-Willamette Air Pollution Authority. The state of Washington makes a similar grant to the multi-county Puget Sound Air Pollution Control Agency.

Brief mention was made earlier in this report of the possibility of a state government helping underwrite the cost of excess capacity (intended to meet future service demands) built into a facility owned by a regional agency. This has been done by the Commonwealth of Puerto Rico, which under the terms of 1967 legislation will reimburse the Puerto Rico Water Resources Authority for that portion of capital and operating costs which will be incurred by the authority in building into its large electrical generating units capacity not immediately needed. This type of subsidy obviously would be of value to several varieties of regional agencies which supply services for which there might well be a greater future demand—water supply, sewage treatment, public transportation, airports, port facilities, bridges, etc. Once full capacity was utilized the subsidy would of course be expected to cease.

### The Future of State Aid

In numerous instances at the present time states are being urged to grant ever-increasing amounts of aid to regional agencies. An example of this may be found in Massachusetts, where the legislature recently was requested by the Massachusetts Bay Transportation Authority to authorize a several hundred million dollar bond issue for expan-

sion of rapid transit facilities, to be funded by half of the proceeds of a one-cent increase in the statewide sales tax. New York State also has been urged to increase a variety of automobile-related taxes in order to obtain funds to subsidize transit agencies in one or more metropolitan regions. In California proposals of the Southern California Rapid Transit District call for substantial new state assistance to help fund the cost of exclusive bus lanes on expressways and peripheral parking lots for transit users. In several states suggestions have been made that transportation trust funds be established, with assistance to various transportation-related programs accomplished by grants from such a fund.

Quite clearly in a number of jurisdictions increased state aid is emerging as an important alternative—or at least a vital supplement to local area funding for regional service programs, particularly in the provision of capital facilities. To a considerable extent this appears to be taking place because regional units often lack direct general taxing authority. While substantial state aid usually is welcomed in a regional area, the considerable degree of state supervision and control which almost invariably tend to accompany it may not be. A more effective form of governmental organization at the regional level, capable of providing a within-the-area financial base for necessary service programs, may be preferred as an alternative in many regions.

## F. Federal Aid

The growth during recent years of federal assistance programs in numerous fields affecting local governments is too well known to require recapitulation here. Quite a substantial number of such programs also are of benefit to such special units as multi-county regional agencies. In view of the steadily increasing emphasis by most federal departments on the solution of problems through area-wide planning and action, assistance to regional units undoubtedly will continue to expand to a considerable degree in the years ahead.

From the standpoint of the typical regional agency, however, most federal aid programs, while generally helpful in nature, have suffered from certain shortcomings which to some extent have reduced their value. In all but a few programs federal assistance has been limited to grants for capital facilities, with no aid offered to help meet operating costs (except perhaps for short-term demonstration projects). In addition, grants for capital items generally have required the provision of substantial local matching funds, which occasionally financially-strapped regional units have had some difficulty supplying. In at least certain instances federal grant programs have not been funded at originally anticipated levels, which has meant that regional units have been unexpectedly compelled to increase their local shares. Furthermore, federal assistance appropriated on a year-to-year basis has made it difficult for regional units to firmly program massive capital projects which might require as much as a decade to complete. Other criticisms have been directed at the restrictions imposed on the size of federal grants which could be made for any single project or even to a single agency or state.

In spite of these factors, however, most agencies would confirm that federal aid has played an important role in the initiation or the improvement of certain vital regional-level activities and programs. To a substantial degree federal assistance has been responsible for many of the new regional air pollution control programs now being developed across the nation. In the mass transportation field also assistance from the federal government has helped provide many regional units with the capital facilities necessary to upgrade quality of service offered. Federal loans for development of water supply sources have been of inestimable value to regional irrigation agencies in arid sections of the country. Regional flood control districts have received major federal grants for capital projects.

### Varieties of Federal Assistance

Regional transportation agencies throughout America have received very substantial federal grants to assist in construction of capital improvements and acquisition of rolling stock. Assistance also has been received to help fund planning studies and carry out a variety of experimental and demonstration projects. For example, the Massachu-

setts-Bay Transportation Authority has received a total of \$108.5 million in federal assistance over approximately the past three years, including a recent \$50.8 million grant intended to help underwrite the cost of a five-mile transit line extension. The Bay Area Rapid Transit District also has received major assistance, including so-called demonstration grants to help produce a modern rapid transit rail car and to develop a park under an elevated structure. Much of the funding for Chicago's new rapid transit lines located in expressway median strips and for the high-speed rail cars used in this operation came from federal mass transit grants. In a quite unique arrangement the South Suburban Transit District (located in the Chicago regional area) was formed by a number of communities partially in the hope of obtaining federal assistance for the purchase of rail rapid transit vehicles. As the District was not readily able to secure matching funds from the participating communities to underwrite the required local share of the cost, it obtained the necessary amount from a railroad which provided service to the area. The transit cars then were leased to the railroad for utilization in commuter runs. In the Cleveland area approximately two-thirds of the more than \$18 million cost of the rapid transit rail line extension to the area's major airport was financed through a federal grant. Federal grants of a billion to a billion-and-a-half dollars or more will be required for completion of the Washington Metropolitan Area Transit Authority's new rapid transit system, on which construction now has begun.

In the sewage treatment field practically every regional sewer agency in America has received or anticipates receiving federal grants to assist in the construction of capital facilities. In the area of water supply the Metropolitan Water District of Southern California was able to secure funds for its early capital projects through the sale of most of a huge bond issue to the Federal Reconstruction Finance Corporation. The Coachella Valley County Water District (California) has received large interest-free loans from the U.S. government to finance certain irrigation projects. The U.S. Bureau of Reclamation constructed major capital facilities to supply water for general and irrigation uses in Northern Colorado; the distribution facilities then were turned over to the Northern Colorado Water Conservancy District for operation with the district to repay its share of capital costs to the federal government over a period of many years. Since 1948 some \$160.5 million in federal funds have been appropriated to help underwrite the various projects of the huge Central and Southern Florida Flood Control District.

Regional park agencies generally have received substantial grants under the federal open space land program for acquisition of tracts of land. Airport authorities receive major grants-in-aid from the United States Department of Transportation to promote safety and efficiency of airfields. These grants are basically for capital purposes (land acquisition, site-preparation, runway construction, lighting, etc.) and normally are in the amount of 50 -percent of total cost. Regional hospital agencies may share in the federal program of loans and grants for constructing, modernizing and equipping hospital and medical facilities.

A relatively few federal aid programs incorporate substantial financial assistance for operating purposes. One of the most important of these is in the field of air pollution control, where grants are available for surveys and plans, establishment of air pollution agencies, improvement of existing air pollution control programs, and continuing support of effective programs. Because of the importance of an area-wide effort in this field, grants to regional agencies have been established at a higher level than those to single local units of government. Local agency funding of a portion of the cost of the program is, however, required. Certain community health programs also receive federal aid to assist in meeting operating costs. Under the library services and construction program federal assistance is available to improve a variety of public library services as well as to help construct library buildings. Recent legislative changes now permit housing agencies to obtain federal aid to help underwrite operating deficiencies.<sup>28</sup>

### Summing Up Federal Aid

There appears to be little doubt that certain federal assistance programs which benefit regional agencies will be expanded substantially in future years. In the area of mass transportation new legislation clearly will result in much larger amounts of money becoming available to agencies for capital facilities than in the past. In the realm of environmental pollution the trend obviously is toward greater assistance both for capital facilities and, to a moderate extent, operating expenses. In this area discussion appears to be taking place at the National level relative to the federal government meeting part of the debt service charges on bonds issued by local or regional units to underwrite the cost of new water pollution control facilities. Yet to be determined, however, is whether the federal government will establish a broad policy of funding operating costs in a substantial number of fields, and, if so, what standards it will lay down to govern such assistance. The problems involved in its taking such a step are somewhat parallel in nature to those facing state governments considering similar action, which have been discussed previously.

It should be noted that in some instances regional agencies facing very large capital outlays have prepared budgets which anticipate that a major portion of such costs will be funded through federal aid. This is particularly true in the mass transit field, where in certain programs now in the planning stage federal contributions of a billion dollars or more are called for within the next five to ten years. Some of these projections of grants-in-aid may to a degree be unrealistic. While substantial increases in federal

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<sup>28</sup> No attempt has been made in this report to discuss the many less important federal aid programs which in an occasional instance might well be available for use by regional agencies. Nor does the report propose to cover federal programs available only in certain sections of the country, such as economically depressed areas.

assistance in the transit area may justifiably be anticipated, they will unquestionably be accompanied by a considerable expansion in the number of agencies seeking such aid. Consequently the amount available per unit may not reach the level anticipated. Under such conditions many agencies may be compelled either to extend their construction timetables or increase the projected local share of the cost.

## G. Failures in Financing Programs for Regional Services

To date regional agencies have had a considerable degree of success in organizing and financing area-wide service programs. In some instances a great deal of ingenuity has been demonstrated by such units in creating special financing techniques to meet fiscal needs. However, at times there have been failures—in scope of program, in the inability to secure public approval for basic financing plans, and in the reluctance or inability to modify financing methods which have proved inadequate. These require examination to determine whether the cause or causes of the setback can be isolated.

Certain of the failures in regional programs may be traced to defects in original organization—the principal one being the establishment of the area unit on too narrow a scale. Thus the early efforts to develop regional sewage treatment programs in the Minneapolis-St. Paul area were in effect relatively unsuccessful because the central sewerage agency's service district encompassed only part of the problem area. Occasionally concern has been expressed that the service area of certain regional transportation agencies presently in existence does not include one or more important places which require the use of such a facility (for example, a large airport).

In the field of finance specifically there have been two principal areas of difficulty. One is the instance where the regional agency has been unable to secure public approval of a financing program for a new service which it wished to institute. The second is the case where the agency has struggled for some years with unsatisfactory financing sources but has been unable to correct the basic difficulty or secure relief, often for a variety of reasons. Both of these types of problems have been touched on previously in this report.

Inability to secure financing for a new service has occurred during recent years primarily in the field of mass transportation. The failure of the Southern California Rapid Transit District to obtain approval of the voters in its service area for a bond issue and sales tax to support a rapid transit system, noted earlier, is an example. This failure seemingly was due to several factors, including general voter unwillingness to assume new tax burdens at a time when other local levies were being increased, dissatisfaction with existing service provided by the agency, doubt as to the soundness of certain technical aspects of the proposed program, opposition of automobile-oriented groups and a somewhat weak public relations effort by the District (swift scheduling of the referendum allowed only a brief period for presentation of the agency's case). Southern California Rapid Transit District officials believe that at a future date it might be possible to secure a favorable voter response to new financing plans, and are developing a specific program to help achieve this goal. The District has appointed a technical committee to advise it on the best possible rapid transit techniques, has developed a greatly strengthened public information program (including extensive meetings with area and neighborhood groups to discuss transit problems) and is making every effort to improve existing motorbus service.

In the Atlanta, Georgia, regional area a proposal of the Metropolitan Atlanta Rapid Transit Authority to finance construction of a rapid transit system was turned down by the voters in November, 1968. The Authority's plan called for issuance of bonds to meet the local share of capital costs, with debt service to be met through ad valorem taxes on real property in the service district. Following defeat of the proposal it appeared that the General Assembly of Georgia would be asked to approve additional sources of revenue for mass transit, in order to avoid the heavy reliance on property taxes incorporated in the initial plan.

It appears clear that proposals calling for a sharp increase in local ad valorem property taxes to finance transit or certain other major regional service programs are not readily approved by the voters in many areas. Obviously such taxes tend to be piled on top of existing local property tax levies, with the end result being a quite heavy burden. Diversification of tax sources may be one answer here. It is very certain that a carefully planned and executed public information campaign designed to explain to the voters the benefits which they can anticipate from the proposed new service will be needed if approval of any large additional direct tax is to be obtained in the typical region. The timing of a referendum also would seem to be of considerable importance. Even taking steps such as these, of course, will not guarantee voter approval of a program for which there is a serious question of basic need.

Turning to the established agency with long-term financial problems, there appear to be numerous factors which have produced the difficulty here. One of the most important clearly is inflation of the cost of goods or services which cannot readily be passed on to the taxpayer or user of the facility by some agencies (particularly those which due to competitive factors cannot readily increase user charges). The problem facing the transportation district with large labor costs has been mentioned previously. A somewhat less well-known instance is that of a regional library, which with relatively fixed tax or grant income must purchase books whose per unit price has increased enormously during the past decade. Park districts which must acquire land in order to provide facilities for larger area-wide populations also have encountered difficulties in recent years. In addition to inflation swift changes in technology or in consumer buying habits may affect the fiscal stability of some regional service units.

Assuming that a continued demand for the service actually exists, some degree of flexibility in taxing power may well be needed by the typical regional district which suffers from chronic financial ill-health. In other cases the agency may well have to impose a user charge which reflects the true cost of providing the service. For example, in certain eastern metropolitan areas there appears to have been a decided unwillingness by some transit agencies over a long period of time to charge fares which would enable them to maintain reserves for equipment replacement. Consequently their capital plant literally wore out, with ultimately disastrous results to all concerned, including the transit user.

## CHAPTER III

### FINANCING THE NEW REGIONAL SERVICE

In view of the fact that citizens in many regional areas across the nation are displaying strong interest at the present in having additional services provided on an area-wide basis, a brief survey of the methods which might be used to finance such functions should be worthwhile. Any examination clearly must consider both the merits and the potential pitfalls of various financing techniques and devices. Since the great majority of services presently are provided by newly-created single or multi-purpose special districts, principal emphasis of necessity must be placed on financing through such units.

#### A. Development of Financing Programs for Newly-Created Agencies

A number of important factors must be taken into account in the development of a financing program for a newly-created regional agency. These include: the legal status of the new unit; the type of activity to be engaged in; the service area to be covered; whether the agency expects to rely solely on user charges or also will seek general taxing authority; the extent to which assistance from other levels of government for capital and operating expenditures can be anticipated; whether the agency will carry on more than one function; and whether the new unit will enjoy a monopoly position.

Only under the most unusual circumstances should a newly-created regional agency anticipate successfully financing both its capital program and its day-to-day operations completely from user charges. Normally this will be possible only if the agency plans to furnish a service whose use is mandatory by all citizens or one which can be expected to enjoy a monopoly position in a strategic location (such as operating the only bridge across a river separating two good-sized population centers). Even under these circumstances the district may have difficulty financing major capital facilities during the period before earnings reach a satisfactory level. It also will need to obtain funds for initial administrative planning and engineering expenses. In the great majority of cases the typical recently-created agency will require some type of supplement to its service charge income if it is to maintain fiscal stability. Additional financial support can be supplied in a number of ways. The agency might be given, cost free, by another governmental unit a capital facility for use in its operation (such as a fleet of busses, commuter rail cars or an airport). It might develop a program under which all local jurisdictions in the service district would be equitably assessed for agency deficits. It might be given capital or operating grants by a state government, or even by a major city in its area. It may seek general taxing authority, or the right to share in an

existing state tax which is a proven revenue producer. Regional units which rely to only a very limited extent on user charges—such as libraries or air pollution control districts—must plan on aid from other governments or on being granted taxing authority almost as a matter of course.

At least one of the alternatives described above may be less than satisfactory in many instances. Assessment against general funds of local jurisdictions in a service area of all or part of an annual deficit incurred by a regional agency may result in strong feelings of resentment against the agency by the communities and counties involved. The typical local community frequently is hard pressed for funds to meet its own responsibilities, and thus often is not in a position to aid a regional unit, even though it may strongly desire to see the service in question provided. In addition, if hundreds of municipalities exist in the service area the problem of fairly assessing a deficit against each becomes well-nigh insurmountable.

Voluntary annual contributions to a regional agency from major cities in the service area or from state governments, while they may be welcomed in many instances, usually are too insecure a revenue source for a unit to firmly depend on. When deficits must be met by this means the new agency is apt to find itself living from crisis to crisis, which generally is not a sound method of operation. The sale of bonds under such circumstances becomes almost impossible.

If the new agency anticipates seeking large federal grants it will, of course, want to make certain that it has an adequate source for required local matching funds.

Should general taxing power be sought for the regional agency all possible constitutional limitations that may exist in the state in which the unit is located must be examined. A state constitution, for example, may place a firm ceiling on the amount of a sales or use tax which may be levied, thus making it impossible for either the state government or a regional agency to impose such a tax in a service area. Uniformity of taxation provisions in a state constitution may restrict the possible use of certain taxing methods. Efforts to levy taxes on motor vehicles or motor fuel in a regional area may run afoul of provisions requiring that revenues from such imposts be used only for specified purposes. If the state constitution places total millage limitations on governments in an area, and this is held to include regional units, each such district may have to engage in an annual struggle to obtain its share. Should the members of the governing board of the regional agency be appointed rather than elected an examination of pertinent legal decisions would be advisable to ascertain if the delegation of general taxing authority to such a body might be found invalid.

Assuming that the new regional agency has a voice in the matter, any proposals it may make for a new tax should take into account several important factors. A levy which could be collected by local governments or by the state government and remitted to the regional unit clearly would be advantageous both from the standpoint of ease of

collection and taxpayer compliance. Use of a “piggyback” tax—a percentage or other addition to an existing levy—particularly would make for facility of assessment and collection. If possible the tax should be one that to a substantial degree keeps pace with any inflationary tendencies in the economy (having to seek periodic rate increases in order to maintain an adequate income flow in not an inviting prospect). The tax preferably should bear some relation to the service rendered, although this may be difficult to achieve in many cases. Care should be exercised in choosing a tax already heavily relied on by existing governmental units in the region, since the total burden imposed by such a levy might become excessive.

Should the new regional agency be faced with the necessity of large scale borrowing to finance a massive capital construction program, in most cases it can expect to encounter difficulties unless it has been given unlimited ad valorem property taxing authority to meet debt service charges (or receives income of substantial magnitude from some other stable tax source). Without such power it presumably will have to seek guarantees of any major bond issue by another governmental agency, or else phase its capital program over a substantial number of years. If the agency is furnishing a mandatory service (such as sewage collection and treatment) it should examine the possibility (if legally permissible) of imposing a service charge during the construction period. Such a levy might enable the district to handle part of its construction cost on a pay-as-you-go basis, or at least would provide additional funds to meet debt service charges.

## B. Financing Programs for Other Units

A well-established regional agency, if on a sound fiscal footing and earning surplus revenues, in most cases will have far less difficulty financing a new service from user charges than will a recently-created district. So also may an existing municipal or sub-regional district which expands its service area to include the entire region. Units of this type often will be thoroughly experienced in financing capital facilities, and with substantial existing revenues plus accumulated reserves to fall back on may be able to develop new programs or expand existing ones with a minimum of outside help. This would be particularly true if the agency could undertake the new or expanded program on a step-by-step basis. If sources of financing in addition to user charges are required, the established agency, with its substantial experience, often can be expected to forecast with some degree of accuracy the amount of supplementary assistance necessary.

Unquestionably one of the principal goals which the typical regional service district should seek to achieve is fiscal stability over an extended period of time. A basic requirement to this end, of course, will be one or more adequate financing sources. In addition, the multi-purpose regional agency which carries on several well-balanced activities appears the most likely to achieve this goal.

### C. State Financing Aid for the New Regional Service

If the state government is requested to provide assistance in financing a new regional service for an area, and feels that aid is justified, it can take one of two principal approaches to the problem. The state may choose to provide the service directly, assuming all costs other than those offset by user or service charges. Or, it may decide to grant some form of assistance, either one-time or continuing, to aid a regional agency established in an area.

A state may well choose to be cautious about directly providing a service for a regional area, since this may establish a precedent requiring it to assume responsibility for similar services in other regions (or even to provide several services in a single region). If the service provided is merely supplementary to one existing in the region the extent of state involvement may of course be less substantial.

Grants-in-aid to assist an agency in a region to undertake a program can present several types of difficulties. A single grant to help underwrite the cost of construction of a capital facility normally will create the least number of problems (other than the state having to find funds to meet a potentially large outlay in a short period of time), since no continuing obligation is involved. If numerous major state grants for capital facilities are anticipated a bond issue probably will be necessary. Operating grants, particularly for agencies undertaking programs in functional areas where budget deficits often are of considerable magnitude and have a tendency to escalate each year (such as public transportation) clearly are a difficult problem. Reaction in a legislative body to yearly requests for large and increasing amounts of aid for this purpose can of course be quite volatile. Should a state decide to undertake an ongoing commitment of this nature it almost certainly will be required to establish continuing revenue sources which can be used to provide much of the funding (this would be equally true, of course, if the state directly provided a costly service to one or more regions).

Two comments relative to state assistance for regional service programs might be made in conclusion. First, a state which has agreed to give financial assistance to a regional agency should at the beginning clearly spell out the nature of its commitment, so that citizens in the region know exactly what has been promised. The state also should make certain that the regional unit has been given taxing authority or other methods of raising funds in its service area which will make possible the funding of the local share of the cost (with an adequate reserve for contingencies). Failure to do these things initially can only result in endless recriminations between the region and the state government if fiscal difficulties arise. Second, the state should make certain that its assistance to regional agencies is closely coordinated with that of the federal government, so that the area unit can secure the maximum benefit from each.

## CHAPTER IV

### METHODS OF EXERCISING CONTROL OVER REGIONAL SERVICES

As can be observed from the numerous examples cited in this report, substantial development of regional service programs has taken place throughout all parts of America and neighboring Canada during the past several decades. Most of these services have been provided by independent special purpose agencies, although other methods also have been used. The expenditures for such services have collectively amounted to billions of dollars yearly, with revenue from a variety of sources being required to fund the operations. There appears to be every indication that the marked trend toward provision of services on a regional basis will continue and even expand substantially during the years ahead.

This major development of area-wide services and the regional service agency, however, as was noted earlier, has produced certain highly significant problems as well. These problems largely have to do with the lack in practically all areas of a means to effectively exercise basic public control over the policies, programs and financing methods of regional service units. Stated more specifically, answers to, the following key questions must be sought in the years ahead:

1. How can the general public, and more precisely the voters of a regional area, exercise reasonable control over the programs, operations and fiscal policies of independent service agencies?
2. What methods can be utilized to compel regional agencies to operate efficiently, keep within specific budgetary limitations, and levy only such service charges and taxes as are needed to carry on a sound operation?
3. How can duplication or overlapping of functions by two regional service agencies or by a regional agency and local governments in the area be avoided?
4. How can long-range plans of a regional service district be periodically evaluated by an impartial agency to determine whether they meet broad regional needs? How can plans of several regional units operating in an area be properly coordinated?
5. How can a regional agency be compelled to undertake a necessary new function, or be restrained from assuming an unnecessary one?

There are several possible alternate approaches to the general problem of overall control of regional agencies and services, one or two of which are being tried to a limited

extent in a few areas. These include:

- a. Coordination and supervision by the state government of the various service agencies and the functions performed by them in a regional area. For the state to effectively perform such a role it unquestionably would have to establish a special office or agency competent to perform the extensive planning and administrative work which would be necessary. This state coordination might or might not be accompanied by direct provision of certain regional services by the state government.
- b. Creation of a formal regional or metropolitan government, with a governing body directly elected by the general public in the regional area. One of the principal functions of such a government would be either the provision of certain regional-level services or the control of those agencies performing such services.
- c. Amalgamation of all regional service agencies in an area into a single unit, such as a multi-purpose authority, which would be given broad power to operate and finance such services in an integrated manner. The governing board of such an agency should be directly responsible to the general public in the regional area.
- d. Merger of all counties located in a region into a single governmental unit. The new enlarged county would be authorized to perform, directly or through special agencies responsible to it, all regional-type services.
- e. Establishment of a regional coordinating council (perhaps called a limited-purpose regional government), also directly responsible to the general public in the overall area, which would have as perhaps its principal function the supervision and control of plans, programs and fiscal policies of all service agencies operating at the regional level. Such a central agency, in addition to developing an overall planning framework for regional-level functions, would develop jointly with each area-wide agency its long-range goals; approve each unit's annual program and review and approve its operating and capital budgets; establish each agency's service charges and approve its tax levies (or impose taxes for it); authorize long-term borrowing for each agency (and perhaps itself issue and market bonds); grant permission to each agency to carry on new or expanded programs or report to the state government the need for authority to do so; conduct any necessary audits of regional agency accounts; and make certain that regional-level plans, programs and fiscal policies were closely coordinated with those of municipal, county and even state governments.
- f. Creation of a regional council of governments. There is some question, however, as to whether a council of governments as presently organized

could be empowered to control and coordinate regional service programs. Membership in a council is voluntary, which means that major sections of a regional area could be totally unrepresented by it. It is doubtful if the courts would allow such an agency to exercise any significant degree of governmental authority—and particularly any taxing or fiscal powers—throughout a region. Regional councils of governments have, of course, been established and structured originally for quite a different purpose than this. In general it would appear that the other approaches outlined offer more effective solutions to the problem.

Obviously, numerous factors will have to be taken into account in each individual area in choosing a sound solution to this problem of establishing centralized control of regional services. These will include: the size of the state in which the region is located; the number of similar regions in that state; the area, population and degree of homogeneity of the region itself; the number and structure of existing municipal and county governments in the region; constitutional and tax limitations; the number of services which could best be provided at the regional level and the number of existing service agencies.

There are certain advantages and disadvantages to each of the possible methods described of establishing control over regional-level functions. One advantage of both the regional coordinating council and the consolidation of counties is that control by the local voter is preserved and yet a full-fledged additional level of government is not created. In addition, a regional coordinating council in some instances might well be able to develop region-wide plans for certain programs, but rely on county and municipal governments for their execution. In any event, the important thing is that as the need for regional-level services increases and special agencies threaten to multiply an effective coordinating mechanism which best fits the total structure of the region be developed and adopted. In order to insure that this be done it unquestionably would be wise, prior to the creation of any (or any new) independent service units in an area, for a comprehensive survey to be made of the region to determine which public service functions might best be performed at the regional level and how such services could be coordinated, proper financing methods developed and citizen control over regional functions established. State governments might well take the lead in instituting such studies in the various regions of each state.

## CHAPTER V

### FINANCING OF REGIONAL SERVICES IN SOUTHEASTERN MICHIGAN

The six-county Southeast Michigan metropolitan region encompasses one of the major cities of America plus a substantial hinterland which is both urban and rural in nature. The present population of the region is approximately four and three-quarter millions, with 80 percent of these people living in some 113 cities and villages and the remaining 20 percent in 102 townships. Well over 50 percent of the total population of the state of Michigan is concentrated in this six-county area.

In view of the vast size of the Southeast Michigan area it might be anticipated that very few services or allied governmental functions would be performed on a full region-wide scale. This is indeed the case. Only a single authority, designed to furnish public transportation services,<sup>29</sup> has been established to operate throughout the six-county area, and it is not yet actually carrying on its intended function. A park district<sup>30</sup> encompasses four of the six counties plus another county outside the region. A metropolitan water agency<sup>31</sup> (actually a department of the city of Detroit) furnishes water and sewerage services to a large number of communities in four counties within the region (and to several jurisdictions outside). A library system<sup>32</sup> operated by the region's most populous county provides certain services for local libraries in three counties, and a hospital authority<sup>33</sup> operates facilities serving communities in sections of two counties. These are the principal services furnished on a broad scale. Practically all other functions which are performed on a multi-jurisdictional basis involve only a single county or in most instances a part of one county.

Methods used to finance the area-wide services presently being provided in the Southeast Michigan region include ad valorem real property taxes (normally restricted to a fraction of a mill in the jurisdictions served), appropriations from local jurisdictions, direct user charges, purchase of services, and state or federal grants. Borrowing is done principally through the use of revenue bonds.

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<sup>29</sup> Southeastern Michigan Transportation Authority.

<sup>30</sup> Huron-Clinton Metropolitan Authority.

<sup>31</sup> Detroit Metropolitan Water Services.

<sup>32</sup> Wayne County Federated Library System.

<sup>33</sup> Peoples Community Hospital Authority.

## Constitutional and Statutory Authority for the Provision of Regional Services in Southeast Michigan

In determining the alternative methods which may be used to develop a structure capable of providing regional services in Southeast Michigan, it is necessary to examine certain pertinent provisions of the 1963 Michigan constitution plus statutes enacted pursuant thereto. These include:

- a. Article VII, Section 27 authorizes the legislature to establish in metropolitan areas authorities with specific powers, duties and jurisdictions. Whenever possible such authorities are to be multi-functional rather than single-purpose in nature. Article IV, Section 42 authorizes the legislature to provide for the incorporation of ports and port districts with specific powers and authority.

The legislature has authorized the creation of single-purpose authorities in a number of fields (hospitals, port districts, transportation agencies, etc.). It has not, however, except through the Metropolitan District Act (Act 312 of 1929, MSA 5.2131 et seq.), authorized the establishment of multifunctional units which could perform a broad variety of services in a regional area. The Metropolitan District Act (enacted under provisions of Article VIII, Section 31, of the constitution of 1908) does authorize the incorporation by two or more cities, villages or townships of a metropolitan district for the purpose of acquiring, owning and operating parks or public utilities for supplying sewage disposal, drainage, water or transportation or any combination thereof. This act, however, which was not modified following adoption of the 1963 Michigan constitution, appears unduly complex and somewhat inflexible, and thus has been little used. In an area containing the number of municipal jurisdictions found in the Southeast Michigan region there is some question as to whether it readily could be utilized to create a major multi-county district.

- b. Article VII, Section 27 also authorizes the legislature to establish in metropolitan areas additional forms of government, to be multi-functional whenever possible. This section presumably gives the legislature power to create either general-purpose or limited-purpose regional governments on a multi-county scale. Such a government undoubtedly could be authorized to provide a variety of services for the region.
- c. Article VII, Section 28 grants to the legislature the power to enact general legislation authorizing two or more counties, cities, villages, townships or districts or any combination thereof to contract with each other, with the state, etc., for the joint administration of any of the functions or powers which each would have the authority to perform separately, to transfer functions to one another, share the costs of functions and services with each other, cooperate with each other and lend their credit to one another or to any combina-

tion thereof in connection with any authorized public undertaking.<sup>34</sup> Officers and employees of local units of government and (with exceptions) of the state may serve on any governmental body established under this section.

The legislature has enacted several general pieces of legislation authorizing intergovernmental contracts between local units of government, intergovernmental transfers of functions and responsibilities and inter-local public agency agreements. These statutes do not include all the powers which the legislature was constitutionally authorized to grant. They are, however, quite broad in nature (for example, local units can establish jointly a legally separate body to carry on a specific function).

In Southeast Michigan very substantial use has been made of the statutes authorizing intergovernmental agreements described above. Numerous local jurisdictions have contracted to provide or receive services in such functional areas as police and fire, parks, water supply, sewage treatment and libraries. The water and sewer utilities provided to numerous communities by Detroit Metropolitan Water Services and the library services provided by the Wayne County Federated Library System, both mentioned previously, are accomplished through inter-community contracts. Substantial use also has been made of joint service agreements in such areas as training of police personnel, mutual firefighting assistance, joint police communications, refuse disposal and hospital services (the latter two usually are provided through formal authorities, however). Some utilization of voluntary transfer of functions among communities also is reported, particularly in such fields as the preparation of tax rolls and bills and provision of health services.

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<sup>34</sup> Article III, Section 5 authorizes the state, political subdivisions thereof and governmental authorities, etc., to enter into agreements with other states, the United States, The Dominion of Canada, etc. for the carrying on of certain functions. A provision authorizing dual service by officers and employees of the state and of local governments also is contained therein.

d. Article VII, Section 13 provides that two or more contiguous counties may combine into a single county if approved by the voters in each county involved. Article VII, Section 2 provides that any county may frame and adopt a county home rule charter in a manner and with powers and limitations to be provided by general law. By Act 293 of 1966 (MSA 5.302 (1) et seq) the legislature has set forth specific procedures for the establishment of charter counties and prescribed the mandatory and permissive aspects of the charter. A key provision of this legislation states that prior to the charter county exercising powers granted solely by its charter within a local community which is exercising a like power, the consent of the local legislative body must be obtained.

To date no mergers of counties have taken place in Southeast Michigan, nor has any charter county been established.

e. Certain other sections of the 1963 Michigan constitution may directly or indirectly relate to the provision of regional services by special units or by the state itself. Article III, Section 6 forbids the state to be a party to, become financially interested in or directly engage in any work of internal improvement, except for public internal improvements provided by law. Article IV, Section 21 forbids the legislature to pass a local or special act where a general act could be made applicable, and states further that for a local or special act to take effect approval by two-thirds of the members of each house (of the legislature) plus a majority vote in the district affected are required. Article IV, Section 30 requires the assent of two-thirds of the members of each house of the legislature for the appropriation of public money or property for local or private purposes.

#### Analysis of Legal Authority to Provide Regional Services

As has been noted, under the Michigan constitution and statutes a number of methods may exist by which services can be provided on a multi-jurisdictional basis in Southeast Michigan. Since each has certain merits and shortcomings, a brief comparative analysis of these techniques-with particular attention paid to their adequacy on a broad regional scale should be of value in planning possible future programs.

The extensive use made of the intergovernmental agreement in Southeast Michigan to date indicates its popularity with many local communities as a device to secure necessary services from a larger unit. Obviously such contracts for the purchase of services from another government have certain decided advantages. They are relatively informal, do not require extensive new legislation by the state and do not create a new level of government. On the other hand, they do place the seller-city in a dominant posi-

tion, often leave the purchaser with little or no voice in policy and fiscal decisions relative to the service and are geared more to satisfy a local rather than a regional need. In the Southeast Michigan area, as previously noted, they have been used to effectively supply water and sewer services to numerous communities, and also to a lesser degree to make available certain library services in a number of jurisdictions. Services such as these are highly popular in, and in some cases absolutely essential to, local communities. It may be questioned, however, whether there would be equal readiness on the part of the typical local community to contract for services in functional areas which might be of limited local consequence but be essential on a regional basis. In addition, the sheer number of communities involved makes service agreements in an area such as Southeast Michigan difficult to achieve on a broad scale. Somewhat similar comments might be made relative to the allied technique of several local communities voluntarily banding together to obtain a service through creation of a special agency.

The voluntary transfer of functions by a local jurisdiction to a larger unit such as a county might be a useful method of providing certain regional-level services if the county covered the total regional area. In Southeast Michigan at present with its six county governments, this is not the case (this is discussed further in the next paragraph).

Merger of counties plus the enactment of a home rule county charter appears at first glance to have substantial merit as a possible method of providing services to the Southeast Michigan region. Such a device could result in the establishment of a central unit without the disadvantage of a third layer of local government being created. However, securing a favorable vote in all or even a majority of six counties for a merger presumably would be a formidable task. Furthermore, the present legislation which in effect requires assent of each local jurisdiction for the transfer of any function presently performed at the municipal level to the charter county presents serious problems in a large area with hundreds of local units.

Since the legislature has taken no steps to date to provide enabling legislation making possible the creation of general or limited-purpose regional governments in Michigan, any discussions on such a possibility must be somewhat hypothetical. Obviously a regional government with authority to provide (or at least coordinate or control) area-wide services, having its governing body elected by the voters, and enjoying general taxing authority would offer a highly effective method of meeting broad regional needs and yet be under the direct control of the citizens of the six-county area. Against these obvious advantages must be offset the fact that a new layer of government would come into being. The constitutional requirement of local assent to special acts possibly might make necessary approval by the voters of Southeast Michigan of any regional government established by legislative action.

Somewhat similar results might well be achieved should the legislature utilize its constitutional mandate and make possible creation of a multi-functional regional-level authority. If such an authority could be established in the Southeast Michigan area control of regional-level service functions could be centered in it, thus permitting effective coordination of area-wide programs. With the establishment of a governing body directly elected by the voters such a multi-purpose agency could legitimately be given general taxing authority, thus enabling it to adequately fund its programs.

The authority of the state to directly provide services in Southeast Michigan should be briefly examined. Undoubtedly the state government legally could itself carry on a substantial number of functions in the six-county region. In such areas as housing or rail transportation, however, possible limitations imposed by the constitutional restriction on the state undertaking internal improvements funded by general tax revenues should be carefully examined (this constitutional provision, long in force, has its roots in the disastrous early experiences of state governments in railroad and canal financing).

#### Financing of Services and Possible Restrictions Thereon

In considering specific methods of financing area-wide functions, it should be stated that there appears to be adequate legal authority in Michigan for regional agencies to establish (when authorized to do so by enabling legislation) a broad variety of user or service charges needed to finance programs. Such user charges presumably could vary within the region if there was adequate justification to support a reasonable classification by district. (Service and user charges are not considered taxes, and therefore not subject to uniformity requirements found in the Michigan constitution.)<sup>35</sup> Thus a transportation authority could establish a zone system for fares or a utility agency might even impose a higher-than-normal water rate in a difficult-to-serve community. No constitutional prohibition seemingly exists which would restrict a grant of authority to a regional agency to use a surplus of funds generated from user charges in one type of activity for a second program.

Turning to the subject of taxation, the imposition of taxes by a regional agency in Michigan clearly would be governed by a number of somewhat complex constitutional provisions and legal rules. It is obvious, of course, that the power of a regional-level unit to impose a tax is derived solely from authority granted by the legislature through statutory enactment. It also appears certain that the legislature can grant to a regional agency such power without violating the constitutional provision (Article IX, Section 2) stating that the power of taxation shall never be surrendered or contracted away.

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<sup>35</sup> However, special assessments upon property for local improvements are taxes.

In the field of property taxation Article IX, Section 3 of the Michigan constitution requires that such taxes be uniform. Cases involving regional agencies have held that this provision requires uniformity in the mode of assessment as well as in the rate of taxation. The uniformity section quite definitely would prohibit an ad valorem property tax of uneven rate in various sections of a regional district, since uniformity must be coextensive with the total territory to which the tax applies.<sup>36</sup>

Article IX, Section 6 of the Michigan constitution places (with exceptions) a 15-mill limitation on the total amount of general ad valorem taxes which may be imposed on the equalized value of real and tangible personal property by all local governmental jurisdictions (except for debt service). Such limitation does not apply to certain units, including any city, charter county, charter authority or other authority the tax limitations of which are provided by charter or general law. Some confusion has arisen in the past with respect to the applicability to authorities of somewhat similar provisions found in the previous constitution. However, a regional authority now created under general law presumably could be granted ad valorem property taxing authority by the legislature outside the 15-mill limitation. A charter county under present legislation may levy a property tax not to exceed ten mills, not less than one-half of which must come from within the 15-mill limitation.

Article IX, Section 8 of the constitution forbids the legislature to impose a sales tax on retailers at a rate of more than four percent and the state now imposes a four percent tax. In view of this a serious question arises as to whether, with the existing statewide sales tax at the maximum authorized level, a regional agency could be authorized to levy any type of tax which reasonably could be construed as a levy on retail sales.

Article IX, Section 9 of the Michigan constitution states that all specific taxes (with certain exceptions) imposed directly or indirectly on fuels used by motor vehicles or on the vehicles themselves must be used exclusively for highway purposes as defined by law. While the restriction placed by this provision on the use of the taxes in question is not as severe as that imposed by earlier constitutions (which flatly limited use to highway purposes), it could well result in an inability by a regional agency to use motor vehicle or fuel tax revenues for other than limited purposes. Court interpretation of the provision would be necessary, for example, to determine whether the legislature could authorize the use of proceeds of such taxes for the development of rapid transit rights-of-way as an integral part of expressways.

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<sup>36</sup> Article IX, Section 3 also requires that every tax other than an ad valorem property tax be uniform on the class or classes on which it operates.

The legislature presumably could authorize a regional agency to levy a tax on personal and other incomes, although such a tax could not of course be graduated as to rate or base (Article IX, Section 7 of the 1963 constitution). However, in view of the fact that cities presently have the power to levy such a tax there might well be a degree of concern on the part of the legislature about overlapping local income taxes.

Authority to levy a variety of miscellaneous taxes unquestionably could be granted to a regional-level agency by the state legislature. The sharing of state-levied taxes does not appear to be prohibited by the 1963 Michigan constitution.

It appears that a regional authority may, when authorized to do so by state enabling legislation, levy a budget deficit against the local jurisdictions which are members of such authority in proportion to their assessed valuation.

It would appear that the state government may appropriate funds or make other grants to regional bodies, although if this were construed to be for a local purpose. Article IV, Section 30 of the constitution may require that this be done by a two-thirds vote of members elected to and serving in each house of the legislature.

In the area of debt financing the legislature has, in the previously mentioned Metropolitan District Act, authorized metropolitan districts to issue general obligation bonds. It also has authorized various types of authorities to issue revenue bonds, the debt service on which may be paid from a variety of sources.

The question of whether bonds of a regional district may be guaranteed by the state government or by a local jurisdiction is an important one. Article IX, Section 19 declares that the credit of the state shall not be granted to any association or corporation, public or private, except as specifically authorized in the constitution. No such specific authorization is contained in the constitutional section authorizing the creation by the legislature of metropolitan governments or authorities. It is not altogether clear from the wording of Article VII, Section 28 whether the state may lend its credit to a joint undertaking of two or more counties, cities, etc.

Cities also are severely restricted in the lending of credit to another agency. Article VII, Section 26 forbids the loan of credit by cities for any private purpose. Cities clearly can lend their credit to joint undertakings of two or more cities, counties, etc., for public purposes. It is questionable whether cities can grant their credit to an independent regional agency, even for a public purpose.

In conclusion it should be stated that few court decisions have been rendered interpreting those sections of the 1963 Michigan Constitution which relate to regional and metropolitan programs and their financing. As a result caution must be exercised in assuming that a particular method of financing a program is or is not feasible.