Minnesota's Metropolitan Fiscal Disparities Act--An Experiment in Tax Base Sharing

Minn. L. Rev. Editorial Board

Follow this and additional works at: https://scholarship.law.umn.edu/mlr

Part of the Law Commons

Recommended Citation


https://scholarship.law.umn.edu/mlr/3070

This Article is brought to you for free and open access by the University of Minnesota Law School. It has been accepted for inclusion in Minnesota Law Review collection by an authorized administrator of the Scholarship Repository. For more information, please contact lenzx009@umn.edu.
Note: Minnesota's Metropolitan Fiscal Disparities Act—An Experiment in Tax Base Sharing

The problem of fiscal disparities within a metropolitan area is essentially one of inequalities in the taxable resources available to each of the various political subdivisions that compose the metropolis. It is a problem of relatively recent development. At one time, the taxable resources of most central cities were more or less balanced, consisting of commerce and industry as well as the residences of people of varying income levels. Although these various land uses were generally concentrated in different neighborhoods, the city itself was large enough to contain them all and thus to allow the rich areas to subsidize the poorer ones. After development reached the borders of the central city, however, growth began to occur within political subdivisions in the surrounding countryside—suburban municipalities which were generally smaller and more homogeneous than the central city, and which tended to be either rich or poor in terms of taxable resources. At the same time, the central city came to shelter an increasing proportion of the less-advantaged while it lost both industry and residences of the more affluent to the suburbs. In short, the sharing of taxable resources that once was possible within the confines of the central city has today become impossible because of the increasing political fragmentation of the metropolis. This in turn has given rise to one aspect of today's much decried urban fiscal crisis.

The Metropolitan Fiscal Disparities Act represents Minne-
sota's attempt to partially alleviate the financial imbalance among certain of its metropolitan municipalities. The Act applies to a seven-county area that includes the central cities of St. Paul and Minneapolis and their suburbs. Under the Fiscal Disparities Act, all local governmental units in this seven-county area share a portion of the growth in the area's commercial-industrial tax base. It is the purpose of this Note to investigate the workings and constitutionality of the Act, as well as to critically analyze the effect of the Act on the provision of public services and the development of the seven-county area.

I. THE PROBLEM OF FISCAL DISPARITIES

A "fiscal disparity" exists between two or more governmental units when they have unequal abilities to generate revenue. Since local governments in Minnesota generate their revenues primarily through an ad valorem tax upon real property, the

4. The Act applies to the seven counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, which cover almost 3000 square miles and contain approximately two million people. Within this area lies a diverse sampling of municipalities, including central cities, balanced cities, dormitory suburbs, and commercial-industrial areas. See J. Margolis, W. Heller & N. Glickman, Metropolitan Fiscal Disparities: Problems and Policies 5-1 to 5-5 (1971) [hereinafter cited as Margolis]. The various and oftentimes overlapping political subdivisions include 137 cities, 52 townships, 49 school districts, 7 counties, and numerous special purpose governmental units.

5. "Commercial-industrial property" is defined in Minn. Stat. § 473F.02(3) (1974). Basically, it is property which is either used or zoned for any commercial or industrial purpose. Apartment buildings, however, are not included. Id. § 473F.02(3)(d).

6. The term "public services" will be used to denote those services that local governmental units normally provide, such as fire and police protection, water and sewer service, and education.

7. This Note will not, however, discuss the portions of the Act that provide for a municipal equity account. Those provisions establish a formula whereby funds appropriated pursuant to other state legislation may be distributed to municipalities in the seven-county area. See Minn. Stat. §§ 473F.01(7), .02(9), (11), (16)-(20), .12, .13 (1974). But the provisions for this account are essentially unrelated to the rest of the Act.

8. See Minnesota Legislature Subcomm. on Fiscal Disparities of House Comm. on Metropolitan and Urban Affairs, Final Report, 1969-70 Interim 1-2 (1971) [hereinafter cited as House Report]. In recent years, the Minnesota legislature has attempted to partially relieve both citizens and local governments from the burdens of local property taxes by using state income tax revenues as a source for increased state aid to school districts and local governments. See Minn. Stat. § 124.212 (1974); id. § 477A.01 et seq. The governor's proposals for the 1975-77 budget indicate that this form of state aid will continue to increase. See Minneapolis Tribune, Jan. 17, 1975, § B, at 10, cols. 3-4. As to the
taxable resources available to these governmental units are heavily dependent on the assessed valuation of the real property located within their borders. As indicated earlier, however, political fragmentation of a metropolitan area results in the area's property tax base being divided rather arbitrarily among the various governmental units. Fiscal disparities may thus arise when the per capita assessed valuation of real property differs between two of these governmental units; a unit with a high fiscal capacity can tax itself at a low rate and still generate the same revenue per capita that a poorer municipality will generate with a high tax rate. This situation has had two major effects: inequities in the provision of public services, and im-

9. See text accompanying note 2 supra.
10. See San Antonio Indep. School Dist. v. Rodriguez, 411 U.S. 1, 53-54 (1973). In addition, local political subdivisions do not necessarily correspond to the areas benefiting from the public services that a particular governmental unit provides. See note 19 infra.
11. "Fiscal capacity is a quantitative measure intended to reflect the resources which a taxing jurisdiction can tax to raise revenue for public purposes." U.S. ADVISORY COMM'N ON INTERGOVERNMENTAL RELATIONS, MEASURES OF STATE AND LOCAL FISCAL CAPACITY AND TAX EFFORT 3 (1962) [hereinafter cited as MEASURES]. The Act defines a municipality's fiscal capacity to be the market value of all real property within its jurisdiction divided by its population. MINN. STAT. § 473F.02(13), (14) (1974).

The fact that two municipalities have equal fiscal capacities, however, does not necessarily mean that they will provide the same level of public services. There are many factors besides the total available resources that affect the ability and inclination of taxpayers to seek a particular level of services from their local government; these factors include other demands which may be made upon the available resources, the taxpayers' perception of the fairness and reasonableness of the tax, the taxpayers' preference for public services, the nature of the local decisionmaking process, and the composition of the local tax base and population. See MARGOLIS, supra note 4, at 3-1 to 3-3; MEASURES, supra; Note, A Statistical Analysis of the School Finance Decisions: On Winning Battles and Losing Wars, 81 YALE L.J. 1303, 1315 (1972) [hereinafter cited as A Statistical Analysis]. Differences in the per capita costs of public services will also affect the level of the services that a governmental unit can provide. See note 112 infra.

The fiscal capacity of a municipality within the seven-county area and the assessed valuation of its commercial-industrial property appear to be directly related. Brief for Appellants at 25-26, Add-31, Village of Burnsville v. Onischuk, 222 N.W.2d 523 (Minn. 1974), appeal dismissed, 420 U.S. 916 (1975). See also MARGOLIS, supra note 4, at 5-6 to 5-7 (noting that the central cities may be the one exception to this relationship).

balance in the development of the seven-county metropolitan area.

It is apparent that in the seven-county area there is a direct relationship between a municipality's fiscal capacity and its per capita expenditures for public services.\(^\text{13}\) Significant differences in fiscal capacity,\(^\text{14}\) however, cannot be readily compensated for by increases in the tax rates of the poorer municipalities.\(^\text{15}\) Thus, a preference for a certain level of public services within a municipality will not always control; relative wealth must also be considered. If the position is accepted that equal tax efforts should result in commensurate yields to the taxing units, inequities in either the public services provided or the tax burdens borne are manifestly unfair.\(^\text{16}\)

The resulting unfairness to the taxpayer becomes even more apparent when it is recognized that the more or less arbitrary


\(^\text{14}\) In the seven-county area, fiscal capacity may vary between municipalities by a ratio of as much as three to one. See Brief for Appellants at 22. Add-31, Village of Burnsville v. Onischuk, 222 N.W.2d 523 (Minn. 1974), appeal dismissed, 420 U.S. 916 (1975); House Report, supra note 8, at 1. Cf. Citizens League Fiscal Disparities Comm., Breaking the Tyranny of the Local Property Tax 8 (1969) [hereinafter cited as Citizens League].

\(^\text{15}\) A governmental unit may encounter legal restraints on the tax levy it can set, because the Minnesota legislature, in an effort to provide property tax relief, has placed significant limitations on such levies. Minn. Stat. § 275.125 (1974) (school districts); id. §§ 275.50–.59 (counties, cities, and towns). If a statutory limit is exceeded, the governmental unit will lose state funds. See id. §§ 275.125(4), .51(4). The limit, however, may be increased by a referendum within the governmental unit. Id. §§ 275.125(2a) (3), .58.

Regardless of statutory limitations, a substantial increase in the tax rate is almost always an unpopular political course. Even if politically feasible, this course of action may prove ineffective—if the increased tax burdens are greater than anticipated relocation costs, the more mobile portion of the local tax base may move to a municipality with a lower tax rate. See Urban America, supra note 2, at 13. Similarly, individuals and businesses giving consideration to locating in the municipality may be deterred by the increased tax rate, thereby exacerbating the problem of a small local tax base.

political fragmentation of the seven-county metropolitan area fails to reflect the social and economic interdependence of the area. That interdependence is evidenced by the considerable intercommunity travel within the area, and by the presence of local governmental “spillovers.” Commercial and industrial enterprises, generally staffed and patronized at least in part by nonresidents of the municipality in which the enterprise is located, are especially likely to be of a metropolitan character.

17. For a discussion of the interdependence of the seven-county area, see Margolis, supra note 4, at 1-1. It should be noted that as a metropolitan area develops and subcenters emerge in surrounding areas, the economic interdependence of the area as a whole will decline. See Netzer, supra note 13, at 472-73. The problem of fiscal disparities will remain, however, since commercial and industrial development will continue to concentrate in certain municipalities. See Minneapolis Tribune, July 16, 1971, § A, at 5, cols. 1-2 (85 percent of new commercial-industrial tax base to locate in 15 percent of the metropolitan area over the next 25 years). See also note 32 infra.

18. See Brief for Appellants at 19-21, Village of Burnsville v. Onischuk, 222 N.W.2d 523 (Minn. 1974), appeal dismissed, 420 U.S. 916 (1975). For example, approximately one-half of the persons employed in the metropolitan area reside in a county other than the one in which they work, and one-third of all trips in the area begin and end in different counties. Id.

19. “Spillovers” can be defined as the benefits or detriments one community receives as a result of another's action or inaction. See Note, Metropolitan Government: Minnesota's Experiment with a Metropolitan Council, 53 Minn. L. Rev. 122, 123 (1968) [hereinafter cited as Metropolitan Government]. Thus, when political boundaries do not coincide with the area benefited by a particular public service, either benefit or cost spillovers may result. Benefit spillovers can be of two types: nonresidents may enter the community and make use of local services; or the nature of the service itself may affect other areas or follow a resident if he leaves the community. Note, Equalization of Municipal Services: The Economics of Serrano and Shaw, 82 Yale L.J. 89, 99 (1972) [hereinafter cited as Municipal Services]. Examples of the latter type of benefit spillover are preventive health care and education. Cost spillovers are similar in form, as when local taxes are shifted to nonresidents or when the pollution created in one community contaminates the environment of an adjoining community.

Spillovers tend to be the rule in metropolitan areas, see U.S. Advisory Comm'n on Intergovernmental Relations, State Aid to Local Government 6-7 (1969) [hereinafter cited as State Aid], and are likely to increase with technological change and growing consumer demands. Netzer, supra note 13, at 472-73.

The presence of spillovers alone does not mandate tax reform, however, since they may balance out between municipalities or their effects may be reduced via user charges, intergovernmental transfers, or redefined political boundaries. See Municipal Services, supra.

20. An example is the Southdale shopping center, located in Edina, a Minneapolis suburb. It is patronized not only by Edina residents, but also by residents of Minneapolis and other area suburbs. The property taxes that Southdale contributes to local governmental units are thus
To the extent that such property increases the fiscal capacity of a particular municipality, it does so in part through the contributions of nonresidents. Thus the taxable property that is scattered among the municipalities of the seven-county area is in this sense a metropolitan tax base. If this social and economic interdependence of the seven-county area is accepted, then clearly the different costs to taxpayers of the public services provided by various municipalities stems not from any inherent differences in the taxpayers' situations, but only from the circumstance of their location in municipalities of different fiscal capacities.

The other major problem raised by the presence of fiscal disparities within the metropolitan area is that of imbalance in the development of the area. The decision of an industrial firm to locate in a particular municipality within the metropolitan area can be influenced by a number of factors, notably tax rate differentials, the ability of a local government to negotiate preferential assessments borne in part by nonresident shoppers. Admittedly, the municipality may have to provide additional public services to the area because of the presence of the shopping center; but the surplus in excess of such costs that accrues to the municipality will be funded in part by nonresidents.

Similarly, a factory may locate in a municipality, thereby increasing that municipality's fiscal capacity, while its employees will establish residence elsewhere. The governmental units in which the employees live thus face increased costs, particularly for the education of the employees' children, without benefit of any corresponding increase in their industrial tax base.

21. See U.S. ADVISORY COMMITTEE ON INTERGOVERNMENTAL RELATIONS, STATE-LOCAL TAXATION AND INDUSTRIAL LOCATION 68-70 (1967) [hereinafter cited as STATE-LOCAL TAXATION]. Nontax factors, such as location of raw materials, markets, and labor, tend to be more influential in the firm's selection of a particular region— as distinguished from a site within the region. Id.

22. See URBAN AMERICA, supra note 2, at 12. The traditional taxing system has encouraged preferential tax treatment, see HOUSE REPORT, supra note 8, at 6, in that there is considerable pressure on local assessors to offer such treatment, see STATE-LOCAL TAXATION, supra note 21, at 85. The ability of Minnesota municipalities to offer preferential assessment was reduced, however, by 1971 legislation providing that assessors be certified by the State Board of Assessors. MINN. STAT. §§ 270.41, .48, .50 (1974). Furthermore, a State Board of Equalization was established to review assessments. Id. § 270.12. See also id. §§ 274.01, .13 (review by city council and County Board of Equalization). Because of the difficulty in determining the market value of business property, however, U.S. ADVISORY COMMITTEE ON INTERGOVERNMENTAL RELATIONS, FINANCING SCHOOLS AND PROPERTY TAX RELIEF—A STATE RESPONSIBILITY 71, 73 (1973) [hereinafter cited as FINANCING SCHOOLS], the possibility of preferential assessments still exists.
FISCAL DISPARITIES ACT 933

erential assessments,22 and the provision of public services.23 The possibility of augmenting their respective fiscal capacities by attracting new industry through a manipulation of these factors causes "keen competition" among the municipalities of the metropolitan area.24

This competition manifests itself on both a local and a regional plane. At the local level, the initial decision on the appropriateness of a given development within the municipality tends to be based on an analysis of whether the tax revenue to be gained from that development will exceed the cost of providing the necessary public services to it.25 At the regional level, municipalities strive to influence the location or nature of area-wide development so as to derive the greatest possible improvement in their fiscal capacities; this improvement in fiscal capacity may be sought regardless of safety, environmental, or other considerations.26 On the other hand, individual municipalities resist the location within their borders of developments which will redound to the benefit of the entire metropolitan area, but which will not contribute to the local tax base.27 In attempting to allocate local land use so as to maximize the tax advantage of their municipality, local officials may thus forgo or resist de-

23. See STATE-LOCAL TAXATION, supra note 21, at 71-75.
24. Id. at 70. See also URBAN AMERICA, supra note 2, at 12 ("cutthroat intergovernmental competition").
25. See MARGOLIS, supra note 4, at 2-22; METROPOLITAN GOVERNMENT, supra note 19, at 125. Regulating development on this basis is termed "fiscal zoning." NETZER, supra note 13, at 473. Its effect is most pronounced when the municipality is confined to a small geographic area. Id.

The usual tactic for discouraging unwanted development within the municipality is exclusionary zoning. CITIZENS LEAGUE, supra note 14, at 5. If, on the other hand, the development under consideration would be an economic asset to the municipality, its growth may be encouraged by offering preferential assessments, see HOUSE REPORT, supra note 8, at 6, or by extending water and sewer facilities to the intended site, see MARGOLIS, THE DEMAND FOR URBAN PUBLIC SERVICES, IN ISSUES IN URBAN ECONOMICS 527, 535 (1966).

26. For example, although municipalities have little hope of influencing the location of a freeway, they may have some effect on the number and location of freeway interchanges. The more interchanges a municipality has within its boundaries, the more access it can offer to local commercial or industrial development. A concern for traffic safety, however, might call for widely spaced interchanges, thus running counter to the economic interests of local communities. See HOUSE REPORT, supra note 8, at 4-5.
27. For example, parks, open spaces, and wetlands might well be sacrificed if balanced in the calculus of only one municipality, whereas they would perhaps be preserved if the interest of the seven-county area as a whole were to be considered. See id. at 3-4.
velopment that might be highly desirable from the viewpoint of noneconomic considerations.

As a result of this competition for a more productive tax base, the seven-county area has suffered haphazard and inefficient development. Municipal ordinances designed to improve a municipality's fiscal capacity force developers who do not meet prescribed standards to move farther away from the center of the area. This contributes to urban sprawl and high public service costs in remote areas, while undeveloped land nearer to the central cities and already fully furnished with public services is available. Furthermore, tax considerations hinder the consolidation and annexation of some of the myriad governmental units in the seven-county area, thereby precluding economies of scale in the provision of public services. Consequently, the interest of municipalities in improving their fiscal capacities conflicts with what might be regarded as optimal regional development.

Under a traditional taxing system, therefore, municipalities have little incentive to cooperate with a regional development plan that conflicts with their interest in maximizing fiscal capacities. Yet the need for a regional development plan is evidenced by the legislative mandate to the Metropolitan Council to co-

28. CITIZENS LEAGUE, supra note 14, at 5-6.

29. In 1973, 41 percent of the 562 square miles in the seven-county area served by existing sewer systems was vacant land, suitable for development. METROPOLITAN COUNCIL, METROPOLITAN DEVELOPMENT FRAMEWORK INTERIM POLICIES 9 (1974) (similar figures for storm sewers and public water reported to be 34 percent and 35 percent, respectively). A Metropolitan Council staff report estimated that two billion dollars in development costs could be saved through 1990 by planning the area's growth so as to utilize undeveloped land within the area. See METROPOLITAN COUNCIL, METROPOLITAN DEVELOPMENT GUIDE, ch. Development Framework, at 3-4 (1974) [hereinafter cited as METROPOLITAN DEVELOPMENT GUIDE]; METROPOLITAN COUNCIL OF THE TWIN CITIES AREA, NEWSLETTER, Aug. 1974, at 1.

30. For example, one obstacle to consolidation or annexation is usually the reluctance of a richer governmental unit to share its tax base with a poorer unit. See CITIZENS LEAGUE, supra note 14, at 3-4.

31. The Metropolitan Council was created by MINN. STAT. ch. 473B (1974). See generally S. BALDINGER, PLANNING AND GOVERNING THE METROPOLIS—THE TWIN CITIES EXPERIENCE (1971); Metropolitan Government, supra note 19. The Council is responsible for providing a Development Guide for the seven-county area, see note 33 infra, and for coordinating the functions of various commissions that provide certain services in the seven-county area. See MINN. STAT. §§ 473B.06(5a), .062 (1974) (Council's powers); id. §§ 473A.651(2), .66(1a) (transit); id. §§ 473C.01, .06 (sewage); id. § 473D.03 (solid waste disposal); id. § 473G.04 (1) (metropolitan parks and open space). The Council also has the power to review the long-term, comprehensive plans of independent
ordinate and plan development for the seven-county area. Without some tax reform, however, the Council might expect to encounter serious opposition to its Development Guide from municipalities that would be economically injured by its implementation. Thus, some way of reducing the impact of fiscal disparities on area development and the provision of public services was necessary in order to allow development in accordance with a regional plan. It is this need which the Fiscal Disparities Act attempts to meet.

II. THE FISCAL DISPARITIES ACT
A. HISTORY AND OPERATION OF THE ACT

In 1971, the Minnesota legislature after stormy debate

32. For example, the Council has adopted the policy that commercial and industrial growth should be clustered in several major, diversified centers, rather than being scattered throughout the metropolitan area. Metropolitan Development Guide, supra note 29, at 8-9, 16-17, 31. In this respect, the Fiscal Disparities Act promotes the Council's plans by reducing the competitive need for such development to occur in a particular community, while avoiding the otherwise inequitable result of concentrating the commercial-industrial tax base in only a few localities. See notes 16-20 supra and accompanying text.

33. Minn. Stat. § 473B.06(5) (1974) requires the Council to produce a Development Guide for the seven-county area. The Guide will establish general policies for the area's growth. See generally Freilich & Ragsdale, Timing and Sequential Controls—the Essential Basis for Regional Planning: An Analysis of the New Directions for Land Use Control in the Minneapolis-St. Paul Metropolitan Region, 58 Minn. L. Rev. 1009 (1974). Different levels of government share the planning and implementation responsibilities for the Guide's Development Framework; local governmental units originate plans which must accord with the general policies established by the Council. See Metropolitan Development Guide, supra note 29, at 10-12, 39-43. See also note 104 infra.

34. See Citizens League, supra note 14, at 6; House Report, supra note 8, at 2. See also notes 31-32 supra.

35. The bill passed the senate by one vote. Of the 31 senators who voted against the bill, 12 were from the seven-county area and 19 were from outstate Minnesota. Minneapolis Tribune, June 2, 1971, § A, at 1, cols. 2-6, at 4, cols. 4-5. Final passage in the house was by a vote of 83 to 39, with 13 of the opponents representing districts within the seven-county area. Minneapolis Tribune, July 16, 1971, § A, at 1, cols. 4-8, § C, at 5, cols. 5-8.

Suburban opponents feared that the bill would lead to loss of the local tax base, reduction of incentives to attract commercial development, and adoption of a metropolitan government. See id., § A, at 1, col. 8; Minneapolis Tribune, June 2, 1971, § A, at 1, col. 4. The Act was also
passed the Metropolitan Fiscal Disparities Act,\(^8\) which provides a method of reducing fiscal disparities within the seven-county area while retaining existing governmental and tax structures. The Act, which nominally\(^9\) went into operation in 1972, was greeted with national acclaim as both an innovative and a realistic approach to metropolitan problems.\(^8\) Some skepticism has been expressed, however, as to whether the Act will ultimately be effective.\(^3\)

The basic concept of the Fiscal Disparities Act is tax base sharing. In particular, the Act implements a plan whereby 40 percent of the commercial-industrial growth in the seven-county area since 1971 is to be shared by all governmental units levying property taxes within the area. The Act places no restrictions on where or how the shared funds can be spent by the recipient governmental units, although it does state six objectives which it is hoped the tax base sharing will accomplish.\(^4\) The Act, moreover, does not fundamentally change the

---

said to have virtually insurmountable administrative problems. See Minneapolis Tribune, July 16, 1971, § A, at 1, col. 3.

Rural legislators who opposed passage of the Act feared that it would be expanded to the entire state. Id. At the time, such expansion of the plan was politically unfeasible, although the State Planning Agency did consider the option, finding that the outstate tax base was insufficient to render the plan economically feasible. See J. Hoyt & D. Nelson, A REPORT ON REGIONAL TAX BASE SHARING (1973).


\(^{37}\) The first assessments under the Act were required to be completed and certified to the appropriate county auditor by November 20, 1972. M\(\text{inn. STAT.}\) §§ 473F.04, .05 (1974). Operation of the Act was enjoined by a Minnesota district court, however, on the ground that it violated the uniformity clause of the Minnesota Constitution. This decision was reversed by the Minnesota Supreme Court on September 13, 1974. Village of Burnsville v. Onischuk, 222 N.W.2d 523 (Minn. 1974), appeal dismissed, 420 U.S. 916 (1975). See notes 55-64 infra and accompanying text.

\(^{38}\) See, e.g., Cordtz, A Word for the Property Tax, 85 FORTUNE May 1972, at 105, 112; Faltermayer, 'Metro' government, Twin Cities-style, 72 LIFE, Jan. 21, 1972, at 28; Editorial, Tax Base Sharing, 60 NAT'L CIVIC REV. 424 (1971).

\(^{39}\) See A Statistical Analysis, supra note 11, at 1325 n.196 ("But by restricting its scope to 'commercial-industrial property,' the plan does little to end enclaves of low or high residential property taxes.").

\(^{40}\) M\(\text{inn. STAT.}\) § 473F.01 (1974) provides:

The legislature finds it desirable to improve the revenue raising and distribution system in the seven county Twin Cities area to accomplish the following objectives:

(1) To provide a way for local governments to share in the
existing tax structure or its administration; it merely provides a method by which property in one governmental unit can be taxed by others.

Before exploring the workings of the Fiscal Disparities Act, it is necessary to review several technical definitions. The focus of the Act is upon "municipalities," which are defined by the Act as cities, towns, or townships located in whole or in part within the seven-county area. Municipalities are used as a basic unit for calculating both the contributions to and the distributions from the area-wide tax base. "Governmental units" are the jurisdictional units that actually collect taxes under the Act. They may or may not be municipalities. The Act defines them as taxing units or bodies which levy ad valorem taxes in whole or in part within the seven-county area; this would include such units as counties, cities, and school districts.

resources generated by the growth of the area, without removing any resources which local governments already have; (2) To increase the likelihood of orderly urban development by reducing the impact of fiscal considerations on the location of business and residential growth and of highways, transit facilities and airports; (3) To establish incentives for all parts of the area to work for the growth of the area as a whole; (4) To provide a way whereby the area's resources can be made available within and through the existing system of local governments and local decision making; (5) To help communities in different stages of development by making resources increasingly available to communities at those early stages of development and redevelopment when financial pressures on them are the greatest; (6) To encourage protection of the environment by reducing the impact of fiscal considerations so that flood plains can be protected and land for parks and open space can be preserved.

A seventh objective, concerning the distribution to municipalities of other revenues, is beyond the scope of this Note. See note 7 supra.

41. One of the seven county auditors serves as the "administrative auditor" and administers the statute from his county office. Minn. Stat. §§ 473F.03, .07(3), (4) (1974). Each county treasurer remits the tax revenues from the shared tax base to the state treasurer, who deposits the revenues in an area-wide tax account from which they are subsequently distributed to governmental units in the same manner as are all other tax revenues. Id. §§ 473F.08(7), (8). Assessment of the market value of commercial-industrial property within each jurisdiction takes place as it did before passage of the Act.

42. Id. § 473F.02(8). See also note 1 supra.

43. Minn. Stat. § 473F.02(5) (1974). See also note 1 supra. Seventeen school districts and three municipalities are located partly within and partly without the seven-county area. The Act deals to some extent with these divided governmental units. Section 473F.02(8) limits the Act's application to property located within the seven-county area, although each municipality's fiscal capacity is to be computed on the basis of its entire property valuation and population. Section 473F.07(3)
The first step in the operation of the Act is to determine the area-wide tax base. Every year, the assessors of each county in the metropolitan area assess the value of all non-exempt commercial-industrial property located within the municipalities of that county. This amount is then compared with the assessed valuation of such property in 1971, the base year. Forty percent of the increase over the 1971 valuation is then contributed by the municipality to the area-wide tax base for the given year. If the market value of the commercial-industrial property within a municipality shows no increase over 1971, that municipality makes no contribution to the area-wide tax base. The sum of the contributions from all the municipalities in the entire seven-county area constitutes the area-wide tax base.

In order to determine the share of the area-wide tax base which each municipality is to receive, a distribution index, based on the population and fiscal capacity of each, must be calculated. A particular municipality then receives a share of the area-wide tax base proportional to the ratio of its index to the sum of the indices of all municipalities within the seven-county area. Whether the municipality gains or loses assessed valuation under the plan depends on whether the share it receives is larger or smaller than the one which it has contributed.

---

44. Valuation is defined as the market value of the real property within a municipality. Minn. Stat. § 473F.02(13) (1974). Assessed valuation is thus the percentage of the valuation which Minnesota subjects to the tax. See id. § 273.13.

45. Id. §§ 473F.05–07.

46. The area-wide tax base distribution index for a municipality is equal to its population multiplied by the ratio of the average fiscal capacity for the seven-county area to the municipality's fiscal capacity (both measured in the prior year) multiplied by two; if the product of those factors is less than the municipality's population, however, the index is equal to the population. Id. § 473F.07(3).

47. Id. §§ 473F.07(3)–(5).

48. Whether a municipality gains or loses tax dollars under the plan depends on the relationship between its local tax rate and the area-wide tax rate. See text accompanying notes 52-53 infra. The amount of tax dollars a municipality contributes to the area-wide tax account is equal to the assessed valuation contributed by the municipality to the area-wide tax base multiplied by the area-wide tax rate. The amount of tax revenue a municipality receives is equal to its share of the area-wide tax base multiplied by the local tax rate. See note 51 infra and accompanying text. Thus, even if on balance a municipality loses assessed valuation to the area-wide tax base, it could receive more tax dollars than it contributes to the area-wide tax account if its local tax rate is sufficiently greater than the area-wide tax rate. A similar situation may
Once the contributions to and the distributions from the area-wide tax base have been calculated for municipalities, the focus shifts to the governmental unit so that the mechanics of actually collecting tax revenues under the Act may be worked out. Initially, each governmental unit must ascertain its *local tax base*; this is done by determining the assessed valuation of all nonexempt real property within the governmental unit and subtracting the contributions made to the area-wide tax base by municipalities located in whole or in part within its jurisdiction. The governmental unit must also ascertain its share of the area-wide tax base; this share is determined by adding together the distributions to which all municipalities located in whole or in part within the unit’s jurisdiction are entitled. Aware of the size of the tax bases upon which it can levy a tax, the governmental unit then determines the amount that it desires to raise in tax revenue and certifies this amount to the appropriate county auditor as its *levy*. The county auditor will subsequently apportion that levy between the local tax base—that is, that part of the particular governmental unit’s assessed valuation which was not contributed to the area-wide tax base—and the unit’s share of the area-wide tax base.

The first portion is termed the *local levy*. The local levy divided by the local tax base equals the *local tax rate*, a rate which will be applied to all taxable property within the jurisdiction.
tion of the governmental unit—except for commercial-industrial property, to which it applies only in part.\(^{52}\) The other portion of the levy, that allocated to the area-wide tax base by the county auditor, is added to the levies requested by all other governmental units in the seven-county area; the result is the area-wide levy. Dividing this area-wide levy by the area-wide tax base yields the area-wide tax rate.\(^{55}\)

To recapitulate, a particular governmental unit may receive revenues from two sources under the Act. First, the local tax base taxed at the local tax rate will produce revenue equivalent to the local levy; and second, the unit will receive revenue in the amount of its area-wide levy. In addition, unlike other property, the commercial-industrial property located within municipalities which have shown an increase in the assessed valuation of such property since 1971 is subject to both the local and the area-wide tax rate. A portion of the assessed value of each individual commercial-industrial parcel within these municipalities—whether that parcel showed an increase in valuation since 1971 or not—is subject to the area-wide tax rate. The portion of each parcel subject to that tax rate is determined by dividing 40 percent of the growth in the municipality’s entire commercial-industrial assessed valuation since 1971 by the total assessed valuation of all the commercial-industrial property in the municipality.\(^{54}\) The remainder of the assessed valuation of each parcel is subject to the local tax rate.

### B. Constitutionality of the Act

In early 1973, a Minnesota district court enjoined the operation of the Fiscal Disparities Act as violating the uniformity clause of the Minnesota Constitution,\(^{56}\) which provides that “[t]axes shall be uniform upon the same class of subjects, and shall be levied and collected for public purposes . . . .”\(^{55}\) The

\(^{52}\) Id. § 473F.08 (4). See note 54 infra.


\(^{54}\) Minn. Stat. § 473F.08 (6) (1974). For example, if 40 percent of the increase in the municipality’s assessed valuation of commercial-industrial property since 1971 were equal to one-tenth of that municipality’s total assessed valuation of commercial-industrial property, then one-tenth of the assessed valuation of each commercial-industrial parcel in that municipality would be subject to the area-wide tax rate.


\(^{56}\) Minn. Const. art. 9, § 1.
Minnesota Supreme Court had previously held that tax legislation must satisfy two requirements in order to be valid under this clause: similarly situated taxpayers must be treated alike,\(^5^7\) and special benefits must accrue to the community that bears the tax.\(^5^8\) Relying principally on the latter of these two requirements, the district court held that there was no reasonable relationship between the contribution made by a municipality to the area-wide tax base and the benefits that its citizens would derive from the distribution of funds under the Act.\(^5^9\) In other words, the main issue of the case was whether those units of government within the metropolitan area which in a given year contribute more of their tax base to the pool than is redistributed to them are sufficiently benefited to meet the constitutional requirement of uniformity.\(^6^0\)

In a four-three decision in *Village of Burnsville v. Onischuk,*\(^6^1\) the Minnesota Supreme Court reversed, holding that the Act satisfies the requirements of the uniformity clause; an appeal to the United States Supreme Court was dismissed for want of a substantial federal question. The Minnesota court admitted that a "literal reading" of its prior decisions would have dictated invalidation of the Act because special benefits would not accrue to each governmental unit on which the tax was imposed.\(^6^2\) Nonetheless, the court stated that requiring a special benefit to accrue to the governmental unit no longer adequately serves the constitutional requirement of uniformity. In a seven-county area which is heavily populated, . . . it is no longer necessary for units of government providing tax revenue to receive the kind of tangible and specific benefits to which our court has previously referred . . . to satisfy the uniformity clause.\(^6^3\)

Instead, the court found that governmental units which contribute more than they receive under the Act derive benefits

---

57. See, e.g., Montgomery Ward & Co. v. Comm'r of Taxation, 216 Minn. 307, 310, 12 N.W.2d 625, 627 (1943).
58. See City of Jackson v. County of Jackson, 214 Minn. 244, 7 N.W.2d 753 (1943); Village of Robbinsdale v. County of Hennepin, 199 Minn. 203, 207, 271 N.W. 491, 493 (1937); Sanborn v. Comm'rs of Rice County, 9 Minn. (9 Gill.) 258, 262 (1864).
59. The statute "imposes a tax on some [units] for the benefit of others." 222 N.W.2d at 528, quoting the trial court memorandum.
60. Id. at 529.
61. 222 N.W.2d 523 (Minn. 1974), appeal dismissed, 420 U.S. 916 (1975) (no substantial federal question). Burnsville, the municipality that challenged the Act, can be characterized as a developing suburb.
62. Id. at 530.
63. Id.
from the area-wide tax base by reason of the social and economic interdependence of the seven-county area. Hence, residents "of highly developed commercial-industrial areas . . . enjoy direct benefits from the existence of adjacent municipalities which provide open spaces, lakes, parks, golf courses, zoos, fairgrounds, low density housing areas, churches, schools, and hospitals."

Two aspects of the court's decision deserve comment. First, the Fiscal Disparities Act is tax legislation and thus is entitled to a presumption of validity. This deference is essential to allow the legislature to reform local property taxes in the most efficient and realistic manner. In Onischuk, the Minnesota Supreme Court expressly accorded such deference to the legislature's scheme for reducing fiscal disparities.

Second, even though the court found that the "special benefit" requirement did not invalidate the Fiscal Disparities Act, that requirement was not completely abandoned: residents must still derive some threshold benefit from the allocation of taxes under a challenged statute. The court in Onischuk merely revised its view of the uniformity clause to take into account what it called "a developing concept of the meaning of the word 'benefit.'" That concept apparently centers around an implicit recognition that benefits can be derived from the social and economic interdependence of the seven-county area. This percep-

64. Id. at 532.
67. 222 N.W.2d at 530-32.
68. Id. at 530. The court cited Visina v. Freeman, 252 Minn. 177, 89 N.W.2d 635 (1958), as the precursor of this "evolving" notion of benefit. Visina involved a challenge under the uniformity clause to the statute establishing the Port Authority of Duluth, an agency which was to finance the reclamation of land and the construction of a terminal port facility. In that case, the Minnesota Supreme Court found that all involved taxpayers received benefits sufficient to uphold the statute's constitutionality. Yet Visina concerned benefits that would be derived from a specific improvement, whereas Onischuk involved benefits to be derived from undetermined uses of redistributed revenues—benefits arising from the social-economic interdependence of the area.
69. See text accompanying note 64 supra. The court also acknowl-
tion of benefit is based on the realization that the political fragmentation of the seven-county area is artificial and that the area is actually a socially and economically integrated entity. In essence, the seven-county area can be viewed as a large city rather than as numerous, completely autonomous political subdivisions.

In ruling on the constitutionality of the Fiscal Disparities Act, the Minnesota Supreme Court did not explicitly address the equal protection issue raised by the plaintiffs. Thus, it might be argued that the statute remains open to a constitutional challenge on that ground. It seems likely, however, that the court

edged that commercial-industrial property can provide a windfall to the municipality in which it locates, and that competition for such property could lead to disorderly development of the seven-county area. 222 N.W. 2d at 532.

70. In their complaint, plaintiffs had alleged that the statute violated the equal protection provisions of the fourteenth amendment to the United States Constitution. 222 N.W.2d at 526. Both the district and supreme courts, however, ruled explicitly only on the uniformity ground. In passing over the equal protection issue, the supreme court seemed to indicate that its inattention was attributable to the fact that the uniformity clause has been construed "to be no more restrictive than the [federal] equal protection clause." Id. at 527. See In re Taxes on Property of Cold Spring Granite Co., 271 Minn. 460, 466, 136 N.W.2d 782, 787 (1965); Apartment Operators Ass'n v. Minneapolis, 191 Minn. 365, 366, 254 N.W. 443, 444 (1934); Reed v. Bjornson, 191 Minn. 254, 261, 253 N.W. 102, 105 (1934). See also Lake Superior Consol. Iron Mines v. Lord, 271 U.S. 577, 581 (1926).

71. There is a line of cases which suggests that the Act could not be successfully challenged under the federal equal protection clause. Thus, while the Minnesota Supreme Court has held that the uniformity required by the Minnesota Constitution in the distribution of tax benefits is achieved if there is a reasonable relationship between tax benefits and burdens, see Visina v. Freeman, 252 Minn. 177, 195, 89 N.W.2d 635, 650 (1958) (uniformity of distribution among several taxing districts); Village of Robbinsdale v. County of Hennepin, 199 Minn. 203, 271 N.W. 491 (1937) (uniformity of distribution within one taxing district); State ex rel. City of New Prague v. County of Scott, 195 Minn. 111, 261 N.W. 863 (1935) (uniformity of distribution within one taxing district), some courts have stated that the fourteenth amendment does not require that a tax bear a reasonable relationship to the benefits received. See Carmichael v. Southern Coal & Coke Co., 301 U.S. 495, 521-23 (1937); Thomas v. Gay, 169 U.S. 264, 278-80 (1897); Hess v. Mullaney, 213 F.2d 635, 639-40 (9th Cir.), cert. denied, 348 U.S. 836 (1954); Morton Salt Co. v. City of South Hutchinson, 177 F.2d 889, 891-92 (10th Cir. 1949); Lafayette Steel Co. v. City of Dearborn, 360 F. Supp. 1127, 1131 (E.D. Mich. 1973). The latter view, however, may not apply to the situation in Onischuk. Those cases involved general taxes, see Illinois Cent. R.R. v. Decatur, 147 U.S. 190, 193-97 (1892); Kelly v. Pittsburgh, 104 U.S. 76, 80-83 (1881), and the statute in each instance was challenged by a member of a community whose government was supported by the disputed taxes. The Fiscal Disparities Act, on the other hand, shifts local
implicitly ruled on this issue. This fact, as well as the practical

property tax revenues from one governmental unit to another. Under the Act, a taxpayer in one community may be taxed for the benefit of a community of which he is not a member and from which he receives no general benefits. On this basis, the Act is distinguishable from the cases cited above and may be subject to scrutiny under the equal protection clause of the fourteenth amendment. See Ad Valorem Financing, supra note 16, at 81-83.

Two possible claims could be made under the equal protection clause. First, by limiting the area-wide tax base to commercial-industrial growth, the Act is arguably underinclusive since residential property above a certain value may provide as much of a windfall to the fiscal capacity of a governmental unit as does commercial-industrial property. Even though the capacity of high income housing for generating tax revenue may be less than that of commercial-industrial property, the former requires less expense for public services, and thus could provide a windfall to the governmental unit; residential suburbs with high fiscal capacities are examples of governmental units receiving such windfalls. It should be noted, however, that residential property lacks the "metropolitan" aspect of commercial-industrial property. See note 20 supra and accompanying text.

Second, the apportionment of the area-wide tax base among area municipalities is not necessarily linked to deficiencies in their fiscal capacities. Rather, the Act's distribution formula is based primarily on a municipality's population, see text accompanying notes 76-87 infra, a measure which fails to take into account the actual needs and costs faced by municipalities in the seven-county area. By allowing residential suburbs with relatively high fiscal capacities to share the area-wide tax base on the same basis as municipalities with lower fiscal capacities and greater public service costs, the Act might be overinclusive as to its class of beneficiaries.

The equal protection issue was raised in the pleadings, see 222 N.W.2d at 526, and was briefly referred to by the district and supreme courts, see id. at 527. The comment of the Minnesota Supreme Court that the uniformity clause has been construed to be "no more restrictive" than the equal protection clause, see note 70 supra, appears to indicate that the court felt it was resolving both issues. If, as seems likely, the issue was considered by the Minnesota court, it must have been resolved in favor of the statute's constitutionality; otherwise, the case could not have been decided as it was. Thus, a strong argument can be made that the equal protection issue was litigated and decided by implication in the Onischuk case.

If this argument is accepted, the Onischuk decision places two doctrinal obstacles in the path of a future taxpayer plaintiff. The first is that of traditional stare decisis. The other is that of res judicata, under which the parties to an action may be estopped from relitigating in a subsequent action issues that were raised and determined in the prior action. See generally Brooks Realty, Inc. v. Aetna Ins. Co., 268 Minn. 122, 128 N.W.2d 151 (1964). Specific findings are unnecessary; the doctrine applies to every issue which was actually litigated or raised by the pleadings in the original case. See Youngstown Mines Corp. v. Prout, 266 Minn. 540, 470, 124 N.W.2d 328, 342 (1963); Gollner v. Cram, 258 Minn. 8, 10-11, 102 N.W.2d 521, 523 (1960); Prendergast v. Searle, 81 Minn. 291, 292, 84 N.W. 107, 108 (1900); O'Brien v. Manwaring, 79 Minn. 86, 87-88, 81 N.W. 746 (1900). In the present situation, the doctrine of res judicata would have an effect beyond the original plaintiffs, since
unavailability of a federal forum, makes it improbable that the Act will again be subjected to judicial review on equal protection grounds.

The holding in Onischuk may prove to be a narrow one. The court's emphasis on the social and economic interdependence of the seven-county area suggests that its new interpretation of the term "special benefit" may be limited by the requirement of such interdependence. Even so, the decision may have a far reaching impact on regionalism; similar statutory schemes could be established in other parts of the state where an area is found to be socially and economically interdependent. The interde-

the determination in an action brought by one taxpayer binds other taxpayers to the same extent that it binds the original plaintiff. Oakman v. City of Eveleth, 163 Minn. 100, 102, 203 N.W. 514, 515 (1925); Driscoll v. Board of County Comm'rs, 161 Minn. 494, 500-02, 201 N.W. 945, 947-48 (1925).

73. A federal court would probably refuse to assume jurisdiction of a challenge to the Act under the federal equal protection clause for at least two reasons. First, when the Onischuk case was appealed to the United States Supreme Court on equal protection grounds, among others, the Court dismissed for want of a substantial federal question. 420 U.S. 916 (1975) (issues of taxation without representation and due process were also raised). It is unclear what effect the dismissal will have on future equal protection challenges to the Act. Compare Ohio ex rel. Eaton v. Price, 360 U.S. 246, 247 (1959) (Brennan, J., separate opinion); P. Bazor, P. Mishkin, D. Shaprio & H. Wechsler, Hart and Wechsler's The Federal Courts and the Federal System 649 (2d ed. 1970); R. Stern & E. Gressman, Supreme Court Practice 233 (4th ed. 1969); Note, The Insustantial Federal Question, 62 Harv. L. Rev. 488, 494 (1949) (taking the view that dismissal for want of a substantial federal question is a decision on the merits), with Comment, The Significance of Dismissals "For Want of a Substantial Federal Question": Original Sin in the Federal Courts, 68 Colum. L. Rev. 785 (1968) (taking the view that such a dismissal is in many cases akin to a denial of certiorari, which lacks precedential weight).

Second, the Tax Injunction Act of 1937, 28 U.S.C. § 1341 (1970), may preclude a federal court from assuming jurisdiction. That statute provides that "the district courts shall not enjoin, suspend or restrain the assessment, levy or collection of any tax under State law when a plain, speedy and efficient remedy may be had in the courts of such State." Id. See, e.g., Mandel v. Hutchinson, 494 F.2d 364 (9th Cir. 1974). The very occurrence of the Onischuk suit is strong evidence that such a remedy exists in Minnesota. Moreover, federal declaratory relief, though still technically available, 1A J. Moore, Federal Practice ¶ 207, at 2285 (2d ed. 1950), is a discretionary remedy governed by general equitable principles. It has usually been denied in cases attacking state tax legislation where an adequate remedy exists under state law. E.g., Great Lakes Dredge & Dock Co. v. Huffman, 319 U.S. 293 (1943). See Lynch v. Household Fin. Corp., 405 U.S. 538, 542-43 n.6 (1972).

74. See text accompanying note 64 supra.

75. See text accompanying notes 68-69 supra.
pendence itself would appear to meet the threshold requirement of benefit necessary to validate the tax scheme.

The fact that additional use of this statutory scheme would be found constitutional, however, does not mean that it will come into common use. There is a basic political conflict between the sort of regionalism that the Fiscal Disparities Act represents and local autonomy. The Act itself was a compromise, partially introducing regional financing of governmental units while at the same time retaining local decisionmaking. Whether this compromise is likely to be repeated or not depends heavily on the effect of the present Act.

III. EFFECT OF THE FISCAL DISPARITIES ACT: A CRITICAL ANALYSIS

As previously noted, the presence of fiscal disparities within the seven-county metropolitan area has had two major effects: inequities in the provision of public services and imbalance in area development. The success of the Fiscal Disparities Act will thus be largely contingent on the extent to which it eliminates those problems.

A. Provision of Public Services

Fiscal disparities produce inequities in the tax rates which residents of different governmental units must pay in order to obtain a given level of public services. The effectiveness of the Act in equalizing those tax burdens will depend upon the degree to which the factors chosen to measure “fiscal capacity” relate to the problems that the Act is intended to solve, and also upon the extent to which a perceived fiscal capacity will influence the Act’s distribution formula.

Fiscal capacity can be measured in two ways: through the use of economic indicators such as income levels, or by a comparison of the revenues that would be raised in different municipalities by a representative tax system. The Fiscal Disparities Act relies on the second conceptual measure of fiscal capacity, defining the fiscal capacity of a municipality as the market value of the real property within its borders divided by its population, and using the real property tax—the prime generator of

76. See text accompanying notes 8-34 supra.
77. See notes 11-20 supra and accompanying text.
78. See Measures, supra note 11, at 4-8, 13-52.
local government revenues—as its representative tax. The use of the market value of real property rather than its assessed valuation is desirable, since it will eliminate inter-municipality differences which might arise from varying assessment practices as well as from Minnesota's property classifications. Market values also serve as some indicator of the income received and produced within the municipality. Nevertheless, the use of population as a divisor in the Act's definition of fiscal capacity renders that definition a per capita index, reflecting the assumption that a municipality's expenditure requirements vary directly with its population. This assumption, however, ignores the fact that the composition of a municipality's population may have an extraordinary effect upon that municipality's need for public services. To some extent, the limitation on the Act's definition of fiscal capacity may be attributed to statistical deficiencies—lack of data that impedes both the determination of an accurate measure of fiscal capacity and the usefulness of such a formula once it has been devised. Even so, the Act's definition fails to account for grants-in-aid that a municipality may receive from outside sources, funds which are certain to affect fiscal capacity and which should be readily ascertainable.

Once determined, fiscal capacity may be at best a fractional part of the distribution formula of the Act. Under the Act, a municipality's area-wide tax base distribution index is proportional to its population and inversely proportional to its fiscal

---

80. Metropolitan Council, supra note 13, at 50. Minnesota classifies property and, based upon that classification, applies a particular percentage figure to the property's market value to arrive at the property's assessed valuation. See Minn. Stat. § 273.13 (1974).

81. Metropolitan Council, supra note 13, at 50. The market value of residential property serves as a fairly accurate measure of personal income, but commercial and industrial property values are less closely related to business income. Margolis, supra note 4, at 4-5, 4-6, 4-11, 5-4.

82. For example, the age distribution of the population may affect public service requirements. If a municipality's population is relatively young (requiring schools) or relatively old (requiring assistance), the municipality's public service expenditures will be greater than if this were not the case. Measures, supra note 11, at 9, 97-105. Generally, central cities such as Minneapolis and St. Paul contain a greater percentage of these special populations than do the suburbs. See E. Brandt, R. Jackson & J. White, The Flight of the Cities (1972); E. Brandt, The Flight of the Cities (Supp. 1973).

83. See Metropolitan Council, supra note 13, at 51. Compare, for example, the recommendation of a fiscal capacity formula based on income received and produced within a community, Margolis, supra note 4, at 3-9, with the Metropolitan Council's recommendation of a formula based on the market value of real property, Metropolitan Council, supra note 13, at 51.
capacity,\textsuperscript{84} unless a municipality's fiscal capacity exceeds twice the average fiscal capacity of the area, in which case its distribution index equals its population.\textsuperscript{85} Population is therefore actually utilized twice in the distribution formula: first, as an element in the determination of fiscal capacity; and, second, as a factor in the formula itself. Population alone, however, is not an accurate measure of a municipality's public needs.\textsuperscript{86} Because of this reliance on population, the distribution formula of the Act will be of limited effectiveness in reducing fiscal disparities and the resulting inequities in tax burdens. Municipalities will still be unable to provide a given level of public services at a uniform cost.\textsuperscript{87}

But this objection remains somewhat abstract. A more concrete understanding of the Act's relationship to the provision of public services can best be achieved by examining the possible effects of the statute in three types of communities.

\textsuperscript{84} A municipality's area-wide tax base distribution index is equal to the product of its population, the average fiscal capacity for the area divided by the municipality's fiscal capacity, and two:

\[ \text{Pop.} \times \left( \frac{(\text{avg. f.c.)}}{(f.c.)} \right) \times 2 \]

\textit{Minn. Stat.} § 473F.07(3) (1974). Since the average fiscal capacity, \textit{id.} § 473F.02(15), is a constant for each municipality, if K is designated as \( 2 \times (\text{avg. f.c.}) \), a municipality's share of the area-wide tax base equals:

\[ \text{Pop.} \times \left( \frac{(\text{avg. f.c.)}}{(f.c.)} \right) \times 2 = K \times \left( \frac{(\text{pop})}{(f.c.)} \right). \]

\textsuperscript{85} The formula used in the calculation of a municipality's area-wide tax distribution index does not take account of the amount by which a municipality's fiscal capacity exceeds twice the average fiscal capacity; the possibility exists, therefore, that a particular municipality could receive an unneeded additional amount of the area-wide tax base. This situation arises because of the presence of the numeral two as a factor in the formula and because the index is not allowed to be less than a municipality's population. \textit{Id.} § 473F.07(3). For example, if \( r \) equals average fiscal capacity and \( s \) equals the fiscal capacity of a municipality, then where \( p \) equals the population of that municipality, \( p > p \times (r/s) \times 2 \), for any \( s > 2r \). In 1970 only two small municipalities in the seven-county area, however, had fiscal capacities greater than twice the average fiscal capacity; thus the problem may be negligible. \textit{See Brief for Appellants at Add-31, Village of Burns-ville v. Onischuk, 222 N.W.2d 523 (Minn. 1974), appeal dismissed, 420 U.S. 916 (1975).}

\textsuperscript{86} \textit{See} note \textsuperscript{82} \textit{supra}. A true measure of need may be impossible to express in any formula. \textit{See Municipal Services, supra} note 19, at 112. \textit{See also} McInnis v. Shapiro, 293 F. Supp. 327 (N.D. Ill. 1968), \textit{aff'd mem. sub nom.} McInnis v. Ogilvie, 394 U.S. 322 (1969).

\textsuperscript{87} The discussion regarding municipalities also applies to other governmental units that calculate their distribution from the area-wide tax base according to the amounts municipalities within their taxing jurisdiction receive. Insofar as these units are larger in area than municipalities, however, costs and population composition tend to be more equally distributed.
1. Residential Suburbs with a High Fiscal Capacity

Residential suburbs generally have a low proportion of commercial-industrial to total assessed valuation. If a residential suburb has a high fiscal capacity—because, for example, of high property values—it may well benefit unduly from the operation of the Act. Such a municipality would contribute relatively little to the area-wide tax base; yet, because distribution is based primarily on population, it would almost certainly be assured of showing a net gain under the statute. Thus, an already superior ability to provide public services to residents would be further enhanced by the Act.88

2. Municipalities with Commercial-Industrial Development

Although a municipality with a high proportion of commercial-industrial to total assessed valuation may have a correspondingly high fiscal capacity, that municipality must provide services such as fire and police protection to the commercial-industrial property. Where the municipality also has a small population, however, it will receive less than it contributes to the area-wide tax base. If the cost of providing services to the commercial-industrial property is greater than the tax revenues that such property will generate after the redistribution mandated by the Act, the burden of providing the services will partially fall upon the residents of the municipality.89 In this respect, the Act may actually hinder the provision of public services in those municipalities with a small population and a fiscal


89. Before enactment of the Fiscal Disparities Act, those residents would not have been so burdened, if it is assumed that revenues from the commercial-industrial property would have covered the cost of providing services to the property. But it is difficult to estimate the true cost of serving commercial and industrial property. Usually commercial-industrial development is considered to be a fiscal advantage for a municipality, but a conservative view would be that the cost of services to such property consumes the tax revenues that it generates. Although some municipalities may benefit greatly from commercial-industrial property within their borders, there is no agreement that this will be true in the average case. See MARGOLIS, supra note 4, at 1-17 to 1-18, 5-8, 7-52.
capacity composed primarily of commercial-industrial assessed valuation.  

3. Certain Governmental Units Noncoterminus with Municipalities

Governmental units other than municipalities determine both their contribution to and their share of the area-wide tax base on the basis of the municipalities wholly or partly within their boundaries. When the boundaries of a governmental unit do not coincide with municipal lines, the unit may be either the beneficiary or the victim of the uneven distribution of residential and commercial-industrial property in the divided municipality. For example, if a municipality is located within two governmental units so that one of the units possesses a large percentage of the residential valuation of the municipality while the other unit has a large percentage of the municipality's commercial-industrial valuation, the former unit will contribute little to the area-wide tax base but will receive a large share in the population-based distribution. For similar reasons, the latter unit will "lose" in the distribution. If the governmental unit in which the residential area is located also has a high fiscal capacity relative to the other unit, such a result would be contrary to the statute's intent. This effect will be significant, however, only when the governmental units cover a relatively small area; over large areas such uneven distributions should tend to balance out.

To the extent that these and other adverse consequences occur, the Act's success in reducing fiscal disparities will be undermined. Even if the Act ultimately equalizes the benefits that residents of the seven-county area receive for their tax dollars, however, inequities may nonetheless arise while the Act is being implemented. Before the passage of the Act, residents living in a municipality with a high fiscal capacity may have enjoyed a high commercial-industrial valuation, a distribution of this nature may resemble a "befuddled Robin Hood," taking from the poor and giving to the individually wealthy who reside in the suburban municipalities with high fiscal capacities. See A Statistical Analysis, supra note 11, at 1337-38.

Recognizing the general problem illustrated by this example, the Metropolitan Council recommended a percentage equalization plan for municipalities and a sharing of commercial-industrial growth for school districts, which provide no direct services to commercial-industrial property. See METROPOLITAN COUNCIL, supra note 13.

90. If poor people tend to live in municipalities with a high commercial-industrial valuation, a distribution of this nature may resemble a "befuddled Robin Hood," taking from the poor and giving to the individually wealthy who reside in the suburban municipalities with high fiscal capacities. See A Statistical Analysis, supra note 11, at 1337-38.

91. See notes 49-50 supra and accompanying text.
high level of public expenditures at a relatively low tax rate. They may have found this advantage capitalized in their property values, whereas residents of a municipality with a low fiscal capacity may have suffered depressed property values. Following implementation of the Act and the resulting equalization of these advantages and disadvantages, property values in a wealthy municipality should drop while those in a poor municipality should rise. During the interim, owners and lessees in the former locality will suffer from this adjustment, while occupants of the latter will benefit. Inasmuch as the Act will have only a moderating impact on fiscal disparities in the seven-county area, however, these effects may be so gradual as not to be serious.

In discussing the impact of the Act on the provision of public services, consideration must go beyond the question whether the Act will indeed have its anticipated effect on the ability of


Tax capitalization occurs where property values rise because a substantial number of prospective residents, in making their locational decision, consider the mix of tax rate and public services that various communities offer. A model based on this notion is the Tiebout hypothesis. See generally Tiebout, A Pure Theory of Local Expenditures, 64 J. Pol. Econ. 416 (1956). Theoretically, if tax advantages are capitalized fully into property values, taxpayers who are residents of different municipalities having different fiscal capacities will pay equivalent sums for public services. The resident of the municipality with the higher fiscal capacity will find that his lower taxes force him to pay more for his housing, while the resident of the poorer municipality will find his taxes higher but his housing cheaper. Thus, the total payments of each for public services may be the same, merely being apportioned differently between tax and rent payments.

93. Oates, supra note 92, at 958-59, 959 n.3. For example, an individual who buys property in a municipality with a high fiscal capacity pays an inflated price because the municipality's tax advantages are capitalized in the market value of that property. After implementation of the Act, such a municipality's tax advantages will diminish. The individual will find not only that his tax dollar buys less public services, but also that his property is worth less than it formerly was. Conversely, a property owner in a municipality with a low fiscal capacity will find that his tax dollar will be worth more as reflected in the amount of public services it will purchase, and also that this advantage will be capitalized in the value of his property—a windfall increase to him. Exactly who will be benefited and who will be hurt, of course, depends upon one's view of the incidence of the property tax, a matter over which there is some controversy. See Financing Schools, supra note 22, at 131-33, app. C.
local governments to provide these services. The Fiscal Dispari-
ties Act expressly relies on existing local governmental structure
and local decisionmaking; in effect, local governments retain dis-
cretion in both the raising and the spending of revenues received
from the area-wide tax base. Because of this discretion, any in-
creased ability to raise revenues for public services which results
from the operation of the Act will not necessarily be converted
into such services. Whether a governmental unit which loses
under the Act will raise its tax rate to restore the previous level
of expenditures for public services or simply reduce the quantum
of those services is not controlled by the Act.94 And a unit which
gains under the Act could choose to lower its tax rate or spend
the funds on other projects, rather than increase its level of pub-
lic services.

Thus, if the Act is successful in reducing fiscal disparities,
its effect will be to remove the size of the local tax base as a
determining factor in local governmental spending decisions, al-
lowing other considerations to be given more weight. The Act
thereby enables a governmental unit to fund public services in
an amount based to a greater degree on the unit's preference
for those services. In this way, the Act tends to equalize the
resources of communities, while allowing them the freedom to
use their equalized resources as they see fit.

It might be argued, however, that in an urban area composed
of a myriad of local governmental units lacking the size, popula-
tion, and fiscal resources to provide public services rationally,
the ideal of local self-determination is superseded—or at least
outweighed—by notions of equality, in the sense of equal tax
borders for a uniform level of services.95 On the basis of effi-
ciency—and perhaps fairness, if benefit and cost spillovers are
not otherwise recompensed—the present system of local self-de-
termination should give way to an alternative local governmental
structure that can provide a standard level of services through-
out the metropolitan area at a uniform cost to all residents.96

---

88-90 (1973); A Statistical Analysis, supra note 11, at 1335 n.115.
(1973); Areen & Ross, The Rodriguez Case: Judicial Oversight of School
Finance, 1973 Sup. Ct. Rev. 33, 45; Bateman & Brown, Some Reflections
96. For a list of criteria relevant to evaluating local governmental
structure and also an enumeration of eleven approaches to local govern-
ment reorganization, see Metropolitan Government, supra note 19, at 134-
42. For a comprehensive analysis of public services and their efficien-
cies, see U.S. Advisory Comm'n on Intergovernmental Relations, Per-
Such an alternative structure could take the form of a special taxing district providing a single service;\textsuperscript{97} a metropolitan government furnishing all public services;\textsuperscript{98} or a federated metropolitan government, with the metropolitan government and its subdivisions each supplying certain public services.\textsuperscript{99}

Opposing this argument is the contention that if local self-determination were to be substantially curtailed, not only would the traditional values of local political autonomy be sacrificed\textsuperscript{100} but a source of public funds might also be lost.\textsuperscript{101} Moreover, local autonomy may not be as inefficient as it has been argued to be. By retaining the existing local governmental structure, the Act preserves, and may in fact increase,\textsuperscript{102} the freedom which both the residents of and newcomers to the seven-county area

\begin{footnotes}
\item 97. The formation of special districts is, however, subject to objection, because such districts diffuse local government accountability and also lack a balanced perspective. See Netzer, supra note 13, at 462-64; Metropolitan Government, supra note 19, at 135.
\item 98. An area-wide government may not provide all public services in the most efficient manner, however, as different services have different economies of scale. In particular, a metropolitan government may not be as efficient as a local governmental unit in providing services that are local in nature, such as fire protection. See Urban Functions, supra note 96, at 9.
\item 99. The consolidation of the city of Nashville and Davidson County in Tennessee illustrates this type of alternative. The city-county, however, was divided into two service districts: a general service district, which served the entire county, and an urban service district, which served the area that formerly was Nashville. See Lineberry, Reforming Metropolitan Governance: Requiem or Reality, 58 Geo. L.J. 675, 698-700 (1970).
\item 100. These values have been said to be increased opportunity for political participation and greater knowledge of the local area. See State Aid, supra note 19, at 8.
\item 102. The Act could improve mobility within the seven-county area by encouraging each municipality to accommodate increased population. See notes 109-12 infra and accompanying text.
\end{footnotes}
have had in selecting the municipality that they prefer in relation to its costs and services. In this way—ignoring economies of scale—the Act could prove more efficient than a political structure composed of only one or a few local governmental units.\footnote{103}

Ultimately, of course, the desired balance will probably lie between the extremes of complete local self-determination and the realization of the most equitable and efficient tax base for the provision of an equal level of services over the entire metropolitan area. The Fiscal Disparities Act resolves this conflict to a degree by forgoing absolute equality in favor of equal opportunity: since only resources are equalized, governmental units retain the discretion to determine the level of public services that they will provide. The Act's impact on the final balance will likely be slight and equivocal, however, since it preserves the present local governmental structure\footnote{104} while perhaps improving the efficiency of local tax bases.

Finally, it should be observed that the discretion left to governmental units by the Act cannot lead to a depredation of the area-wide tax base. The levy that officials of a local governmental unit choose is apportioned between the local and the area-wide tax base, with the funds derived from the latter available only in proportion to the unit's taxation of its own local assessed valuation. The procedure thus prevents communities from ravaging the area-wide tax base without enduring a corresponding burden.

\section*{B. Area Development}

The Fiscal Disparities Act is almost certain to have profound effects upon the development of the seven-county metropolitan area, at both the local and regional levels. Just what those effects will be has not yet become clear; certain speculations, however, are possible.

\footnote{103} See Netzer, \textit{supra} note 13, at 460-61. This efficiency is exemplified by the operation of the Tiebout model. By presenting a potential resident with a number of communities, each offering a varying mix of services and tax rates, his true preferences will govern his choice of location within the metropolitan area, resulting in a more efficient allocation of services. See Tiebout, \textit{supra} note 92, at 417, 422.

\footnote{104} The Twin Cities area is developing the outline of a two-tier system of government, with broad policy decisions being made on a regional level by the Metropolitan Council, and implementation of these policies being accomplished by local governmental units. See Kolderie, \textit{Reconciling Metropolis and Neighborhood: The Twin Cities}, 62 \textit{Nat'l Civic Rev.} 184 (1973).
At the local level, the Act is likely to affect the location of future commercial-industrial development. Inasmuch as any growth in the assessed valuation of commercial-industrial property is to be shared in part by the entire area, municipalities will have less incentive to attract commercial-industrial development, and therefore less desire to offer preferential assessments or to extend public services to areas not otherwise requiring them. Residential suburbs, in particular, should have little incentive to encourage commercial-industrial development, because under the Act they can share in the assessed valuation of such property while enduring none of the accompanying congestion or pollution. Developing communities should also have less desire for additional commercial-industrial development, since 40 percent of its assessed valuation would be subject to the levies of other communities. Insofar as the tax revenues to be generated by the remaining 60 percent of the new property's assessed valuation—together with the amount received from the area-wide tax base—exceed the costs of services for the development and also offset the nuisance of the development to ear, eye, and lung, commercial and industrial concerns should not be unwelcome. A fine line exists, therefore, between desirable and undesirable developments, especially in view of the uncertainties inherent in the relationship between tax liabilities and service costs. A municipality's decision may be influenced, however, by the employment opportunities that a new development might offer.

In the event that no municipality desires commercial-industrial growth, or if developers become too dissatisfied with the Act's effect, commercial-industrial development may well locate outside the borders of the seven-county area. The Act could thus become a cause of urban sprawl. For this to occur, however, the tax advantages of doing business outside the metropolitan area would have to significantly outweigh the added costs—especially transportation costs. Consequently, the possibility of

106. See note 89 supra.
107. Nevertheless, since the area-wide tax rate is in some measure merely the average of all the tax rates levied in the seven-county area, its effect is unlikely to be decisive for developers.
the Act’s becoming a cause of extraregional development seems remote.

Residential development, too, may be affected by the Fiscal Disparities Act. Since the distribution of the funds collected from the area-wide tax base is proportional to a municipality’s population, the Act provides some incentive for a municipality to encourage population growth. Because the distribution formula does not take into account the composition of a municipality’s population, however, municipalities will probably still be unwilling to encourage high-service-cost persons, such as the poor and the elderly, to locate within their borders.109

In can be argued that by equalizing fiscal capacities, the Act has diminished suburban motives for maintaining exclusionary zoning practices.110 Under this theory, low- and middle-income housing would no longer be a burden on the municipality if the additional service costs associated with such development could be satisfied out of funds received from a levy on the area-wide tax base. Realistically, however, the Act does little to aid development of low- and middle-income housing.111 Many municipalities will still prefer wealthier people as residents, because they not only significantly raise the residential valuation that a municipality can retain for itself, but also do not require the “enabling” public services that the poor and elderly need. Furthermore, cost differentials in the provision of public services may favor the wealthier communities112 so that even if expenditures were equalized on a per capita basis, a wealthy community could still enjoy a greater quantum of public services.


110. See id. at 122; Municipal Services, supra note 19, at 120.

111. Other means, however, are available to encourage low- and middle-income housing development. For example, the Metropolitan Council discourages applications for federal aid for any purpose if the community applicant has not made reasonable efforts to find sites for federal housing programs. See Kolderie, supra note 104, at 186; Minneapolis Tribune, Dec. 9, 1974, § B, at 9, cols. 1-7.

112. The central cities are burdened with greater municipal service costs than are the suburbs. This condition is usually termed “municipal overburden.” For example, Minneapolis and St. Paul spend two and one-half times as much per capita for police protection as do suburban municipalities. This expenditure per capita corresponds closely to the crime rate. Similar situations exist with respect to fire protection, public health, housing, park programs, and street maintenance. See E. BRANDT, THE PLIGHT OF THE CITIES 1-15 (Supp. 1973). Thus, merely equalizing expenditures per capita will not account for the different level of public services each community requires.
Local planners may also be affected by the Act, to the extent that it removes tax base considerations as a factor in urban planning. Rather than concentrating on whether a particular land use will generate maximum tax revenues while keeping service costs to a minimum, a municipality can base its planning decisions on nontax factors. On the other hand, the tax revenue-service cost calculus may simply become more complicated under the Act. Local planners may attempt to weigh the loss of two-fifths of the incremental growth in a municipality's commercial-industrial assessed valuation against the implications of such development under the statutory distribution formula. In other words, the existence of the Act might simply result in the incorporation of its effects into the tax revenue-service cost balance. Nevertheless, to the extent that the Act shifts a municipality's focus from commercial-industrial development to a broader range of development by making the latter more economically feasible, it should remove tax base considerations as the primary determinant of that municipality's planning decisions.

On the regional level, the Fiscal Disparities Act should aid implementation of the Metropolitan Council's Development Guide and promote local government cooperation by reducing intergovernmental competition for commercial and industrial development. Viewed as part of an overall legislative scheme, therefore, the Act furthers the orderly growth of the seven-county area and may make possible the realization of other regional objectives. If successful, however, the Act may result in the elimination of one reason for local government reorganization, since the problem of fiscal disparities will have been re-

114. See note 33 supra.
115. See Hagman, supra note 109, at 129-30. The initial response to the Act, however, has been resistance by most municipalities that must share their tax base with others. Burnsville's lawsuit challenging the validity of the Act exemplifies this hostility toward the implementation of the Act. In addition, the Minnesota Supreme Court's decision upholding the Act's validity resulted in the introduction in the legislature of a bill that would repeal the Act. Minneapolis Tribune, Jan. 25, 1975, § B, at 10, col. 1. This reaction was foreseen by the house subcommittee which considered the fiscal disparities bill. See House Report, supra note 8, at 23-29. That subcommittee suggested that the Act be combined with the Metropolitan Council's proposed percentage equalization program, under which all communities would be net beneficiaries.
116. See U.S. ADVISORY COMM'N ON INTERGOVERNMENTAL RELATIONS,
moved or reduced. By so preserving the existing local governmental structure, the Act may thus incongruously prove to be an obstacle to regional government.

The Act may also further, on a more subjective level, the notion of regionalism in the seven-county area. An enunciated objective of the Act is "to establish incentives for all parts of the area to work for the growth of the area as a whole." One such incentive is provided by the fact that when commercial-industrial development occurs anywhere in the seven-county area, many municipalities will share in its contribution to the area-wide tax base. The Act may thus broaden the focus of local officials from their own municipalities to the entire seven-county area.

IV. CONCLUSION

In terms of concrete accomplishment, the Fiscal Disparities Act is perhaps only a modest step toward improved local governmental finance. It continues the use of the much maligned property tax, which has been decried for its regressivity, inequitable administration, adverse land use consequences, and even unpopularity. In recent years, however, the property tax has been looked upon with more favor, and there now seems little doubt that it will continue as the mainstay of local finance. For this reason, the Act's most significant achievement may be its redistribution over the seven-county area of possible tax windfalls, gained by a particular municipality from the location of commercial-industrial property within its borders.

Other deficiencies, however, detract from this achievement. Since the distribution formula is founded primarily on population, the shares that governmental units receive from the area-wide tax base are not necessarily related to the unit's needs.


119. See Financing Schools, supra note 22, at 12; Areen & Ross, supra note 95, at 49-50; Carrington, supra note 101, at 1244-46.

120. See House Report, supra note 8, at 11; Moon & Moon, The Property Tax, Governmental Services, and Equal Protection: A Rational Analysis, 18 Vill. L. Rev. 527, 591-92 (1973) (property taxes should continue to support public services not producing significant spillovers).
Moreover, because the shared area-wide tax base is limited in nature and extent, the Act can only partially reduce fiscal disparities. The Act could be revised either to broaden the character of property whose assessed valuation is shared, or to supplement its operation with additional funds derived from a nonproperty tax source at the state or regional level. Increased state aid to municipalities and school districts, for example, would lessen the reliance of governmental units on the property tax and thus mitigate the deficiencies of the Act. Without modification, however, the Act remains open to attack as being relatively ineffective in relieving inequities in the tax burden with respect to the provision of public services.

On other levels, the Fiscal Disparities Act may have a greater effect. One very important impact may well be that, in conjunction with the activities of the Metropolitan Council, the Act will serve to further the orderly development of the seven-county area. In this regard the Act's narrow focus on commercial-

121. The Act provides that the assessed valuation of only commercial-industrial property will be shared. Moreover, only 40 percent of the increase in this valuation since 1971 forms the area-wide tax base.

122. Even if the assessed valuation of other property—such as residential—were included in the redistribution scheme of the Act, merely requiring the area's tax base to be shared on a larger scale might not provide sufficient funds for all communities. If a high minimum level of public services were desired, additional funding would be necessary.

123. See Citizens League, supra note 14, at 18-23. Of the five fiscal disparities proposals that were before the house subcommittee, all but the bill eventually enacted provided for additional revenues. See House Report, supra note 8, at 15-29. The house subcommittee felt that, with or without provision for additional revenues, a statute was needed which would allow local governmental units to share the property tax base. Id. at 14.

124. Municipalities in Minnesota are relying less on property taxes and more on state and federal aid. See Minneapolis Tribune, Jan. 31, 1975, § B, at 2, cols. 3-4 (37 percent of municipalities' revenue generated by property taxes in 1971; 29 percent in 1973). Nonetheless, property taxes continue to increase in most municipalities. Id. at 14.

125. The present state aid program, however, does little to equalize taxpayers' burdens. The legislature has concentrated on aiding education while doing little to alleviate municipal overburden. E. Brandt, supra note 112, at 29-37. For example, in 1972 state-provided funds represented 70 percent of revenue for elementary and secondary schooling, but only 25 percent of municipal government revenue. Id. at 29. This pattern of state aid only increases the discrepancies between the fiscal position of the suburbs, whose primary financial burden is education, and that of the central cities, which are plagued by greater municipal costs. See note 112 supra. Minneapolis has been hurt by such a state aid program. See Minneapolis Tribune, Feb. 12, 1975, § A, at 4, cols. 1-2. But see Minneapolis Tribune, Feb. 21, 1975, § A, at 12, cols. 1-2 (suburbs' rebuttal).
industrial property may be appropriate, since such property is the prime object of municipal competition to improve the local tax base. Also, the Act may have major significance because its notion of funding governmental units in part on an area-wide basis recognizes the seven-county area as a single community. To this extent the statute may help foster a growing regionalism in the seven-county area. Conversely, it may serve to rescue those governmental units faced with a fiscal crisis from the fate of annexation, merger, or consolidation, and thus encourage the forces of decentralization.

The impact of the Fiscal Disparities Act will increase in the future. For the present, however, its significance seems to rest in its function as an interim measure, a milestone in the regional development of the seven-county area.

126. In 1973, the shared commercial-industrial assessed valuation was to have been only about two percent of the area's total tax base. By 1985, this figure is expected to be 25 percent. Minneapolis Tribune, July 18, 1971, § A, at 14, cols. 1-2.
Appendix

ILLUSTRATION OF THE WORKINGS OF THE FISCAL DISPARITIES ACT

Consider a metropolitan area in which three municipalities, A, B, and C, comprise a county, W. For purposes of this illustration, these four entities will be assumed to constitute the only existing governmental units. A is a central city beset with urban problems, B is a highly developed inner ring suburb, and C is a developing outer ring suburb.* The following data is postulated:**

<table>
<thead>
<tr>
<th></th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>W</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pop. 1971</td>
<td>50,000</td>
<td>20,000</td>
<td>5,000</td>
<td>75,000</td>
</tr>
<tr>
<td>Val. 1971</td>
<td>$400</td>
<td>$140</td>
<td>$60</td>
<td>$600</td>
</tr>
<tr>
<td>Av. Val. 1971</td>
<td>$23.0</td>
<td>$4.9</td>
<td>$3.0</td>
<td></td>
</tr>
<tr>
<td>C-I Val. 1971</td>
<td>$23.5</td>
<td>$5.0</td>
<td>$3.5</td>
<td></td>
</tr>
<tr>
<td>C-I Growth</td>
<td>$.5</td>
<td>$.1</td>
<td>$.5</td>
<td></td>
</tr>
<tr>
<td>40% C-I Growth</td>
<td>$.2</td>
<td>$.04</td>
<td>$.2</td>
<td></td>
</tr>
</tbody>
</table>

The effect of the Fiscal Disparities Act on the metropolitan area can be studied through the use of this data.

1. Calculation of fiscal capacity and area-wide tax base:****

   Fiscal capacity for 1971 (f.c.=valn./pop.) ($\text{473F.02(14)}$)
   
   for A = $400/50,000 = 8,000
   for B = $140/20,000 = 7,000
   for C = $60/5,000 = 12,000
   
   Average fiscal capacity for 1971 ($\text{473F.02(15)}$)
   
   $(400 + 140 + 60)/(50,000 + 20,000 + 5,000) = 8,000$
   
   Area-wide tax base ($\text{473F.07(1)}$)
   
   $.2 + .04 + .2 = .44$

2. Determination of a municipality's distribution from the area-wide tax base:

---

* A, B, and C have the approximate fiscal capacities of Minneapolis, Richfield, and Burnsville, respectively.

** All dollar amounts are in millions. Valn.=valuation; pop.=population; C-I=commercial-industrial; f.c.=fiscal capacity.

*** Valuation is the market value of real property within a governmental unit.

**** Throughout this statutory process, the burden of calculating the various figures is allocated between the administrative auditor and each county auditor.
The area-wide tax base distribution
index (pop.x (avg. f.c. 1971)/(f.c. 1971)) x 2) (§473F.07(3))
for A = 49,000 x (8,000/8,000) x 2 = 98,000
for B = 20,000 x (8,000/7,000) x 2 = 45,714
for C = 6,000 x (8,000/12,000) x 2 = 8,000
The sum of these indices = 98,000 + 45,714 + 8,000 = 151,714

The area-wide tax base for 1972 (((index)/(indices)) x (area-wide tax base)) attributable (§473F.07(4), (5))
to A = (98,000/151,714) x $.44 = $.2842
to B = (45,714/151,714) x $.44 = $.1326
to C = (8,000/151,714) x $.44 = $.0232
Therefore:

| Contribution Distribution Net |
|-------------------------------|-----------------|
| A $2.000                      $2.2842  $0.2842  |
| B $.0400                      $.1326  $.0926  |
| C $.2000                      $.0232  $-.1768 |

C is a net loser to the area-wide tax base while A and B gain on balance.

3. Calculation of taxable value for each governmental unit:
((assessed valn.) — (contribution to area-wide tax base) +
(distribution therefrom))

for A $105,000 — $20,000 = $85,000
for B $50,000 — $20,000 + $20,000 = $50,000
for C $20,000 + $20,000 = $40,000

for W $175,000 — (.2 + .04 + .2) = .44
+ (.2842 + .1326 + .0232) = .44
$175,000

4. Determination of levy:
After the taxable value for their governmental unit has been calculated, officials can decide upon the amount they wish to levy.
Suppose A decides on a levy of $12.6, B $2.25, C $.7, and W $17.5.
These are total levies, which must be apportioned among the local and area-wide tax bases.
The taxable resources available to each unit (local tax base + area-wide share)
A = $104,800 + $2842 = $105,0842
B = $49,960 + $1326 = $50,0926
C = $19,800 + $.0232 = $19,8232
W = $174,5600 + $44000 = $175,000

Unit's area-wide levy (((area-wide share)/(taxable value)) x (total levy)) (§473F.08(3)(a))
for A area-wide levy = (.2842/105,0842) x 12.6 = $.03408
local levy = 12.6 - .03408 = $12.56592
for B area-wide levy = (.1326/50,0926) x 2.25 = $.00596
local levy = 2.25 - .00596 = $2.24404
for C area-wide levy = \((.0232/19.8232) \times .7 = \$0.0082\)
local levy = \(.7 - .0082 = \$0.6918\)

for W area-wide levy = \((.4400/175.0000) \times 17.5 = \$0.0440\)
local levy = \(17.5 - .0440 = \$17.4560\)

5. Calculation of tax rates:

The local tax rate \(((\text{unit's local levy})/(\text{unit's local tax base}))\) (§473F.08(4))

with respect to municipalities
for A = \((12.56592)/(104.8000) = .11990 = 119.90 \text{ mills}\)
for B = \((2.24404)/(49.9600) = .04492 = 44.92 \text{ mills}\)
for C = \((.69918)/(19.8000) = .03531 = 35.31 \text{ mills}\)

with respect to the county
\(W = (17.45600)/(174.5600) = .10000 = 100.00 \text{ mills}\)

The local tax rate is the tax levied on all taxable property except commercial-industrial property. Thus, for noncommercial-industrial property, the tax rate is
in A \(119.90 + 100.00 = 219.90 \text{ mills}\)
in B \(44.92 + 100.00 = 144.92 \text{ mills}\)
in C \(35.31 + 100.00 = 135.31 \text{ mills}\)

The area-wide tax rate (§473F.08(5))
The area-wide levy = \$.03408 + \$.00596 + \$.0082 + \$.0440 = \$.08486
The area-wide tax rate \(((\text{area-wide levy})/(\text{area-wide tax base}))\) = \((.08486)/(.44) = .19286 = 192.86 \text{ mills}\)

The tax rate on commercial-industry property \(((40\% \text{ C-I growth})/(\text{C-I assessed valn. 1972})(\text{area-wide tax rate}) + (((C-I assessed valn. 1972-40\% \text{ C-I growth})/(\text{C-I assessed valn. 1972}) \times \text{local tax rate})\) (§473F.08(6))
in A=\((.2/23.5) \times 192.86 + ((23.3/23.5) \times 219.90) = 219.67 \text{ mills}\)
in B=\((.04/5) \times 192.86 + ((4.96/5) \times 144.92) = 145.30 \text{ mills}\)
in C=\((.2/3.5) \times 192.86 + ((3.3/3.5) \times 135.31) = 138.60 \text{ mills}\)

Prior to the passage of the Fiscal Disparities Act, tax rates would have been (unit's tax rate = unit's levy/unit's assessed valn.,)

municipal county
in A = \((12.6/105) + (17.5/175) = .12000 + .10000 = 220.00 \text{ mills}\)
in B = \((2.25/50) + (17.5/175) = .04500 + .10000 = 145.00 \text{ mills}\)
in C = (.7/20) + (17.5/175) = .03500 + .10000 = 135.00 \text{ mills}\)
on both commercial-industrial and other property.