

RESOLUTION NO. 16A

**Whereas,** the exposure of municipalities in Colorado and throughout the country to federal antitrust lawsuits has been greatly expanded as a result of recent decisions of the United States Supreme Court;

**Whereas,** the potential for treble damage awards and the substantial expense of defending antitrust litigation, even if successful, may inhibit municipalities from enacting or enforcing regulations which are intended to protect the public health, safety and welfare, but which also may be deemed to restrict competition;

**Whereas,** at least four Colorado municipalities already have been sued under the federal antitrust laws for various regulatory activities, with claimed damages, when trebled, exceeding \$100 million;

**Whereas,** the cost to the taxpayers of one Colorado municipality in defending one of these lawsuits, which was settled prior to trial, exceeded \$250,000;

**Whereas,** municipalities differ from private enterprise in that private enterprise is not charged with protecting the public health, safety and welfare;

**Whereas,** numerous protections from municipal regulations, other than treble damages under the federal antitrust laws, are available such as, public notice, public hearing, public meeting and public record requirements, court review of actions, periodic elections and the rights of initiated referendum and recall, and the continuing authority of the state General Assembly or the people of Colorado to modify the statutory and constitutional authority of Colorado's municipalities;

(over)

Whereas, state legislation does not provide any certain solution to the problem and years of litigation will be necessary to decide whether any state legislation meets the test established by the U. S. Supreme Court for local government antitrust immunity;

Whereas, federal legislation can address the problem directly by seeking a specific exemption from the federal antitrust laws for local governments and all or some of their activities;

Whereas, federal legislation could eliminate damages from the antitrust remedies available against local governments and their taxpayers; and

Whereas, local governments should not be imperiled when engaging in traditional local government regulatory activities such zoning, enacting and enforcing building and fire codes, regulating the use of public rights-of-way, licensing, franchising and the myriad of other regulatory activities traditionally engaged in by local governments;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY (TOWN) OF Sugar City that the Congress of the United States should act as quickly as possible to provide appropriate exemptions for municipalities from federal antitrust liability.

Introduced, read in full, passed, adopted, approved and ordered posted/published this 3rd day of January 1983.

Harriet Luettram  
Town Clerk

Harold Brannett  
Mayor