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ARIZONA TAX RESEARCH ASSOCIATION

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School district budgets reveal deseg taxation has reached new heights

Property taxpayers and state general fund take hits

ATRA has been telling Arizona's policy makers for years that school district property taxes levied under the flag of desegregation are out of control. But no speech, newspaper column, or graph could make the point as poignantly as several districts have done this summer with the adoption of their budgets and property tax levies.

Under A.R.S. §15-910 (G-J), school districts may levy unlimited property taxes in excess of the state's limits without voter approval if the district has either a court order of desegregation or an administrative agreement with the U.S. Department of Education's Office for Civil Rights (OCR).

This exemption from the limits may continue even after the court order is lifted or the OCR agreement expires. In addition, districts may also have multiple and overlapping agreements.

Nineteen school districts levy outside their budget limits for deseg. Three school districts are under court order to desegregate: Tucson Unified School District (TUSD); Phoenix Union High School District (PUHSD); and Phoenix Elementary School District (PSD).

The remaining districts have either current or expired OCR agreements allowing the unlimited access to the property tax.

There are currently 16 school districts being monitored by OCR. Of those, only nine are among those districts that levy for deseg. Within the last five years, 54 monitoring agreements have been closed by OCR, "with no further action."

Meanwhile, 10 school districts currently levying for deseg are not listed on the OCR's current list. Numerous districts over the years have had OCR agreements and have *not* levied for deseg.

Neither the courts nor OCR provide any specificity on funding sources for achieving compliance. In fact, in many states deseg spending is funded in large measure by the state itself rather than the local property taxpayers. Those states, not surprisingly, tend to play a significant oversight role in districts' deseg programs.

While courts have been lifting deseg orders across the country in places like Denver, Austin, Cleveland, San Francisco, Savannah, and Hillsborough (to name a few), Arizona appears to be going in the opposite direction, with no end in sight to the steady growth in deseg spending and taxation.

Arizona's 19 "deseg districts" budgeted $173 million for deseg in FY 2000-2001, nearly all of which came from primary property tax levies. Although budgets for FY 2001-2002 are not yet available from the Arizona Department of Education (ADE), this year's tax rate changes indicate substantial increases. A preliminary analysis of Maricopa County school districts indicate that the statewide total this year is likely to exceed $190 million.

Although ADE has not yet made the data available, the budget data obtained from the Maricopa County School Office show some sizable deseg increases. To name a few: Scottsdale Unified, 51%; Roosevelt Elementary, 20%; and Mesa Unified, 11%.

Such spending has a direct impact on taxpayers. As the Legislature has adjusted the qualifying tax rate (QTR) to reflect growth in the current values of existing

See **DESEGREGATION**, *page 3*

No tax cuts triggered this year

In addition to the small personal income tax cut passed by the Legislature this year, there were additional personal and corporate income tax reductions possible if the fiscal year (FY) 2001 state budget closed with an ending balance that exceeded certain thresholds.

The first set of triggers was set to go into effect if the budgeted FY 2001 ending balance of $103,141,300 was exceeded by $79.7 million. Two additional sets of triggers hinged on excess revenues topping $104.1 million and $138.1 million.

The first two tax reduction triggers included reductions in the lowest personal income tax rate from 2.87% to 2.81%. The third tax trigger would have reduced the corporate income tax rate from 6.968% to 6.8% as well changed the corporate income tax apportionment formula by increasing the sales factor to 65% for those taxpayers electing to do so.

The ending balance for FY 2001, while not final, will be approximately $10 million, over $172 million shy of the first trigger level to be activated. Barring any changes during the 2002 session, all of the triggers could again be activated if revenues exceed that which was budgeted during FY 2002. However, with a dramatically lower beginning balance ($10 million vs. $103 million) and tax collections continuing to come in below forecast, the prospects for next year's triggers are bleak.

Pima County Board adds on yet another TUSD tax increase

And just in the nick of time!

Literally minutes before officially adopting property tax rates and values for all its jurisdictions, the Pima County Board of Supervisors narrowly approved yet another tax increase for the Tucson Unified School District (TUSD).

The Board voted (3 to 2) on August 20, 2001, to approve a petition from TUSD to exceed their budget for a legal liability under A.R.S. §15-907 (liabilities in excess of the budget), resulting in a 7.5-cent tax rate increase.

ATRA and the Pima County School Superintendent, Linda Arzoumanian, spoke in opposition to the petition.

In most circumstances, ATRA would not necessarily be opposed to such a request. ATRA has long maintained that §15-907 may be necessary in certain circumstances to fund "excessive and unexpected legal expenses."

ATRA's successful efforts during the last legislative session to reform this section of law simultaneously emphasized the importance of leaving in tact the provision for legal liabilities.

However, the fact that petitions under this law require the scrutiny of the county school superintendent and the approval of the county board of supervisors demonstrates that such requests are not to be taken lightly.

Why ATRA opposed TUSD's petition:

The district was seeking to exceed their 2000-2001 budget by $932,646 for a legal expense they paid out of the 1999-2000 budget. That year, the district had over $2.4 million in unspent budget capacity. With this petition they were trying to access the property tax to exceed the following year's budget, a budget that did not incur the liability in question. A.R.S. §15-907 is reserved for "excessive and unexpected" liabilities. This expenditure was made from a budget from two fiscal years ago and it clearly fit within the funds available at that time — it was neither excessive nor unexpected.

The district was also asking to exceed its 2000-2001 budget by $610,747 for attorney's fees. This estimated amount has not yet been paid and may, in fact, be less. ATRA argued that the petition to exceed the budget for attorney's fees should only be granted when the exact amount is known and only after a thorough examination of the district's financial position at that time, which may include using the district's litigation fund pursuant to §15-1107.

TUSD's property taxes are extremely high, with a primary rate exceeding eight dollars. Homeowners are being taxed to the limit. Local businesses are bearing an undue property tax burden and economic development in Tucson is suffering in large measure because property taxes are so high.

ATRA maintained that before the Pima County Board of Supervisors voted to increase property taxes on TUSD taxpayers, there should have been no doubt that it is a necessary action with no viable alternative.

Supervisors Dan Eckstrom, Sharon Bronson, and Raul Grijalva voted for the tax increase. Supervisors Ann Day and Ray Carroll voted against it.

Michael Hunter

Attention Tax Professionals

ATRA's *2001 Property Tax Rates and Assessed Values* book will be available soon. Please provide your name and mailing address by mail, fax or e-mail by September 30, 2001, to receive your copy as part of our bulk mailing. The cost for non-members is $20.00. Members receive the book free of charge. Requests for mailings after that date will require an additional S&H payment of $5.00.

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NOTICE

ATRA's *Annual Meeting & Outlook Conference* will take place on November 16 at the *Pointe Hilton, South Mountain*.

ATRA's annual golf tournament will be held, as always, the day prior to the Annual Meeting, (Nov. 15) at the *Palm Valley Golf Club* in Goodyear.

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Desegregation spending, tax levies, reach all time high

Contintued from page 1

property, some school districts have been taking advantage of the rate reductions to increase spending on deseg and other items beyond the spending limits.

Illustration #1: TUSD, where deseg levy increases have become an art form

TUSD drew a lot of attention to itself this year when it increased its deseg property taxes 20% to $62.5 million. This amounts to an override, without voter approval, that is between two to three times more than the 10% override available with voter approval.

In addition to the deseg taxes, levies for excess utilities, dropout prevention, adjacent ways, and liabilities in excess (see article on page 2) all contributed to a 98-cent hike in the primary rate, now at $8.0889 per $100 of assessed valuation.

That rate hike will not affect owner-occupied residential taxpayers (Class 3) because the state constitution caps their primary taxes at one percent of assessed value. In other words, the rate on Class 3 taxpayers cannot exceed $10.00 per $100 of assessed value. The amount that would have been levied had the cap not been in place goes to the school district in the form of additional state aid.

Last year, TUSD received approximately $4.2 million in additional state aid. This year TUSD's additional state aid resulting from the one-percent cap will be approximately $10.2 million. (This is apart from this year's estimated $26 million in additional state aid to TUSD resulting from the 35% homeowner rebate.)

Other taxpayers will be burdened with the higher rate. Commercial property taxpayers will take a considerable hit this year. Without the 35% rebate, or the one-percent cap, and with a taxable value calculated to be two-and-a-half that of an equally-valued home, commercial taxpayers will pay $3,486 in total primary property taxes for every $100,000 of assessed value. Meanwhile, as indicated above, the residential taxpayer will pay $1,000 for every $100,000 of assessed value.

TUSD's tax rate is nearly double the QTR, the equalized rate used to calculate state assistance.

Illustration #2: Washington Elementary, learning the ropes

The Washington Elementary School District (WESD) has also been running into a bit of a controversy over the last few years because of its deseg tax increases.

WESD began levying for deseg five years ago. By FY 1998-99, the district was levying $1.8 million under §15-910 (G-J). The following year they almost doubled the deseg levy to $3.2 million.

Then, in the November election of 1999, voters rejected (60% to 40%) a continuation of WESD's 10% budget override. Alarmed by the loss in revenue from the override, the district gave a $1.9 million boost to WESD's deseg levy, totalling almost $5.2 million for FY 2000-01. In essence, WESD told its voters: *You don't get to say NO.*

By FY 2001-02, despite having regained voter approval for their 10% override in 2000, WESD was clearly hooked on the non-voter-approved deseg override, using the pending implementation of Proposition 203 as the excuse for another hike in deseg levies, now at $6.6 million.

WESD's primary tax rate is now a full 99 cents higher than the QTR to fund deseg and other categories outside the budget limits (*i.e.* excess utilities).

In addition to the 10% voter-approved override, WESD has another 8% in spending capacity that many other districts (that, incidentally, also have to implement Prop. 203) do not have.

Illustration #3: Buckeye Elementary, the upstart

Last year, Buckeye Elementary became the 19th school district to join the ranks of the "deseg districts" by levying $290,272 under §15-910 (G-J). This year, the district increased the levy 72% to $500,000.

To accomplish the spending hike (including also excess utilities and a sizable adjacent ways levy), Buckeye Elementary more than doubled its primary tax rate. Now at $4.8806 per $100 of assessed value, Buckeye Elementary's rate is more than 236% of the QTR.

The 1990 State Auditor General Report on Desegregation

In 1990, the Auditor General reported that "Ten districts used this provision to budget $47.3 million for desegregation in fiscal year 1990-91." The report further documented that "Expenditures more than doubled between fiscal years 1987-88 and 1989-90, increasing from $15.9 million to $33.8 million."

The study, which was limited to only five of the 10 districts then levying for desegregation, also revealed that "some costs charged as desegregation were not related to their orders and agreements" and that all districts appeared to have expended funds under the desegregation law that had previously been funded from State or other local funds.

The Auditor General's report concluded that "some commonly accepted aspects of accountability appear to be lacking in Arizona's desegregation finance process." The report recommended that the Legislature take steps toward strengthening accountability and increasing the State's role in formulating desegregation plans."

The continued growth in these expenditures demonstrate that the Auditor General's recommendations from nearly a decade ago still have merit.

In an era when courts are lifting desegregation orders for most urban school districts across the country, taxpayers in Arizona should bring into question what districts have been doing — what the Legislature has allowed — in the name of desegregation.

In the past, the Legislature has sidestepped the issue of deseg spending. As a result, we now have 19 school districts whose tax rates and spending levels undermine the equity that is the foundation of our school finance system.

The time for audits has passed. It is time for the Legislature to stop the bleeding. Deseg spending should be capped and a plan put in place to return these districts and their taxpayers to an equitable position with other districts.

Michael Hunter

Study committees begin work

Ad hoc committee recommendations could affect taxpayers

Several *ad hoc* study committees that could directly affect Arizona taxpayers are beginning work as the summer draws to a close. A number of legislative study committees were created by the Speaker of the House and the President of the Senate since the close of the 2001 regular session.

The following are a few of the committees ATRA staff will be tracking this fall:

HOUSE AD HOC COMMITTEE ON TAX POLICY FOR THE NEW ECONOMY

Six House members (Camarot, Carpenter, Giffords, Hatch-Miller, Knaperek, May) will review Arizona's tax policy on sales, income, and property taxes. The committee will review income tax credits (both personal and corporate) and sales tax exemptions.

The stated charge of the committee is to make recommendations for a "fair and equitable system of taxation that fosters a vibrant economy, respects individual right to wealth, maintains faith in government and to determine efficient methods for tax rate reductions to encourage job growth in Arizona's new economy. " A report is due December 15, 2001.

The committee has the following four tentative meeting dates planned:

September 26 – Property Tax Issues

October 17 – Sales Tax Exemptions & Internet Taxation Issues

November 27 – Income Tax Issues

December 13 – Final Recommendations

HOUSE AD HOC COMMITTEE ON ARIZONA'S BUSINESS CLIMATE

Ten House members (Avelar, Carpenter, Chase, Flake, Hatch-Miller, Leff, McClure, Miranda, Sedillo, Somers) will examine Arizona's business climate by focusing on issues such as business development, business retention, and business expansion. The committee will meet in various locations around the state. A report is due December 31, 2001.

The committee has the following tentative meetings planned: August 29 in Tucson; September 12 in Snowflake; September 20 in Scottsdale; October 10 in Flagstaff; October 11 in Prescott; October 23 in Yuma; November 7 in Lake Havasu; and November 14 in Phoenix.

HOUSE AD HOC COMMITTEE ON HEATHCARE DISTRICTS

The committee is charged with making recommendations regarding the establishment of a healthcare district for Maricopa County. Committee members are: Representatives Huppenthal (Chair), Cannell, Hanson, and eight non-legislators, including ATRA President Kevin McCarthy. A report is due December 31, 2001.

SENATE AD HOC COMMITTEE ON EDUCATION FUNDING FORMULAS

Senators Ed Cirillo and Ruth Solomon will examine funding formulas for K-12, community colleges, and universities. State Superintendent Jaime Molera and ATRA Vice President Michael Hunter are among the five non-legislators appointed to serve on the committee. A report is due December 15, 2001.