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# ARIZONA TAX RESEARCH ASSOCIATION NEWSLETTER VOLUME 76 NUMBER 1 JANUARY 2016

## **ATRA's 2016 LEGISLATIVE PROGRAM**

### **Introduction/State Budget**

ATRA's legislative program is developed each year with recognition that the Legislature and Governor's highest priority for the session should be passing a state budget that is not only balanced but is sustainable. State law now requires the Legislature, in conjunction with the passage of the General Appropriations Act, to also reflect revenues and expenditures for the following three years. The major issue facing state policymakers is ensuring one-time revenue (rainy day fund and cash balance) is not appropriated for on-going spending.

The development of the Fiscal Year (FY) 2017 budget will be somewhat clouded with the uncertainty surrounding the outcome of Proposition 123 on May 17<sup>th</sup>. By all accounts, the state general fund is in a better structural position than in recent years. JLBC estimates, presuming the passage of Prop 123, that on-going revenue will meet the projected baseline spending for FY 2017. The base revenue forecast does not include one-time revenues of \$551 million that are estimated to be available for FY 2017 budget deliberations. Interestingly, the collapse of the Arizona state budget during the Great Recession was made considerably worse when, just prior to the downturn in FY 2008, state policymakers used a similar sized cash balance (\$529 million) to fund on-going spending. State policymakers need to resist the temptation to repeat that mistake in the FY 2017 budget.

State policymakers need to resist the temptation to repeat the FY 2008 budget mistake in the FY 2017 budget.

ATRA will provide updated state budget recommendations to the Legislature after the Joint Legislative Budget Committee (JLBC) and the Office of Strategic Planning and Budgeting (OSPB) have submitted their recommendations for the FY 2017 budget.

**The 2016 Legislative Session begins Monday, January 11!**

**Stay tuned for daily updates & bill tracking on the ATRA homepage**

## Taxation

### Property Tax

Arizona property taxpayers have experienced historic instability over the last 12 years. Following record increases in net assessed values (NAV) from 2003 to 2008, statewide NAV plummeted between tax years 2009 and 2013. However, despite statewide NAV's climbing 5.2% over the last two years, the statewide average tax rate still climbed 23 cents to \$12.77, the highest rate since 1999.

The statewide average tax rate is now up \$3.57 (39%) from the low point of \$9.20 in 2009.

Regrettably, despite recent policy changes aimed at reducing Arizona's very high business property tax burden, the collapse of the residential real estate market during the Great Recession had a particularly negative effect on business property taxes. In fact, the reduction in residential values resulted in a 22% increase in effective tax rates on business property from 2009 to 2015.

**Prevent greater access to the property tax.** For the 2016 session, ATRA will oppose efforts on the part of Arizona local governments and special districts to increase access to the property tax base. Despite widespread recognition that Arizona's business property taxes are a major impediment to economic development, there is considerable pressure at the Capitol to increase access to the property tax. Among others, Arizona Fire Districts will be seeking increased access to the property tax base through a removal of the current \$3.25 rate cap.

In addition, ATRA will advocate for the continued compliance with the state's Truth-in-Taxation law. Since its passage in 1998, the state has consistently complied with the TNT law. While that rate has both risen and fallen with the fluctuations in the real estate market, ATRA believes adherence to the TNT law is an important principle that will benefit taxpayers over time.

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**Property Tax Reform vs. Targeted Property Tax Breaks.** ATRA has led the effort to reform Arizona's property tax system and reduce the disparity in tax

treatment between business and residential property. As a result of previous ATRA-backed legislation passed in 2005, 2007, and 2011, steady progress has been made in reforming the underlying policies that result in Arizona's high business property taxes. That progress is the direct result of policymakers addressing the root cause of that problem: the shift of taxes from residential property to business through higher assessment ratios on business property. To their credit, over the last decade, policymakers largely rejected calls to address the problem through rifle-shot tax breaks to specific industries. ATRA continues to support policies that provide for equitable treatment among property taxpayers and will oppose efforts that undermine that important policy principle. Along with other organizations that oppose targeted tax breaks for specific industries, ATRA has been successful in recent sessions in defeating legislation to expand class six (5% assessment ratio) to targeted industries.

For the 2016 session, ATRA will pursue the following property tax legislation:

**Phase Out Desegregation/Office of Civil Rights (OCR) Levies** – ATRA will pursue legislation to phase out, over five years, the OCR levies being imposed by 17 Arizona school districts. In addition, the proposal will impose a 10 year phase out of the Deseg levies of two Arizona school districts. Districts that remain under a federal court order to desegregate would begin the phase out the year following being declared unitary. See the flyer on pages 5 and 6 for an overview of Deseg/OCR. (Sen. Lesko & Rep. Leach)

**K12 Primary Rate Reform** – ATRA will pursue legislation to simplify the calculation of the K12 primary rate. K12 districts that qualify for state aid would annually levy the Qualifying Tax Rate (QTR). Levies for expenditures outside the district budget limit would require a separate tax rate. (Rep. Olson)

**Adjacent Ways Levy Approval** – ATRA will pursue legislation to require K12 districts to receive approval through the School Facilities Board prior to levying non-voter approved property taxes for an Adjacent Ways project. (Sen. Dial)

## **Sales Tax**

The 2013 legislative session was highlighted by the passage of HB2111, a historic measure that made significant progress towards reforming the administration of what is arguably the most complicated and chaotic sales tax system in the country. Legislation enacted in the following year required state level uniform licensing and filing. A key feature of the 2013 reforms, state level collections of all state and local sales taxes, was regrettably delayed until 1/1/16. That delay has now been extended again with no certainty regarding a new implementation date. A provision in the 2013 TPT reform legislation included a poison pill that indicated the state collection of all

state and local sales taxes would go into effect once the Department of Revenue had captured data with sufficient specificity to meet the needs of Arizona cities. This provision has placed the cities in the position of being the sole arbiters for deciding when or if TPT reform becomes a reality.

For the 2016 session, ATRA will support the following sales tax legislation:

**State Collection of Sales Taxes** – ATRA will pursue legislation to repeal the 2013 TPT Reform provision that requires city approval before taxpayers are provided the administrative relief of a single payment for all state and local sales tax obligations at the state level.

**TPT Customer Claims** – ATRA will support legislation to provide an alternative claims process for customers to file for a refund in an amount equal to the taxes paid by the vendor. This will provide customers with a remedy in situations when the vendor is either unwilling to pursue a refund or the vendor is no longer in business. (Rep. Olson)

## **Public Finance**

**Community College Expenditure Limitation Reform** – ATRA will pursue legislation to create accountability for the estimation of Full Time Student Equivalents (FTSE) for community college expenditure limitations. (Rep. Shope)

**Sale of School Property** – ATRA will pursue legislation to reform the current laws associated with the use of proceeds from the sale and lease of school property. (Rep. Norgaard)

**Local Debt Limit Values** – ATRA will pursue legislation to codify the recent Attorney General opinion that the constitutional debt limits for Arizona local governments are based on full cash net assessed value. (Rep. Mitchell)

# Desegregation/OCR Funding Overview

- ◆ \$211 million annually goes to 18 school districts for racial/ethnic discrimination remediation
- ◆ \$4.3 billion spent since 1986, 97% of monies to metro Phx & Tucson schools
- ◆ Exclusively paid for by local property taxpayers; not equalized by state (outside funding formula)
- ◆ No connection to number of pupils, remediation success, achievement, poverty, etc.
- ◆ Not voter approved & no planned phase out; however levy amounts and participants are capped
- ◆ Highlighted by Gov Ducey K-12 Task Force as one of the most problematic parts of K-12 funding

## School Funding Inequity

School District	FY 2016 Deseg Totals	Deseg levy as % of RCL	Deseg\$ /ADM
Tucson Unified	\$63,711,047	26.4%	\$1,387
Phoenix Union	\$55,800,892	38.3%	\$2,108
Tempe Elementary	\$14,178,248	25.8%	\$1,276
Roosevelt Elementary	\$13,570,494	30.5%	\$1,516
Phoenix Elementary	\$11,151,530	34.6%	\$1,665
Mesa Unified	\$8,774,057	2.7%	\$146
Scottsdale Unified	\$7,382,169	6.1%	\$322
Washington Elementary	\$6,350,000	5.8%	\$290
Cartwright Elementary	\$4,628,061	5.6%	\$259
Glendale Union	\$6,131,959	7.8%	\$406
Isaac Elementary	\$4,951,155	15.3%	\$735
Amphitheater Unified	\$4,025,000	5.8%	\$305
Holbrook Unified	\$2,517,481	20.0%	\$1,279
Flagstaff Unified	\$2,241,322	4.4%	\$242
Wilson Elementary	\$1,946,054	33.8%	\$1,656
Agua Fria Union	\$999,000	2.6%	\$134
Buckeye Elementary	\$1,608,921	7.1%	\$343
Maricopa Unified	\$1,291,000	4.3%	\$220
<b>Totals/AVG</b>	<b>\$211,258,390</b>	<b>14.6%</b>	<b>\$752</b>

### EXAMPLES OF SPENDING INEQUITY

- ◆ Tucson Unified spends 24% more per pupil than neighboring Sunnyside Unified
- ◆ Phoenix Union spends 57% more per pupil than neighboring Tolleson Union
- ◆ Phoenix & Wilson Elem spend ~30% more per pupil than peer districts
- ◆ Tempe & Roosevelt Elem spend ~20% more per pupil than peer districts

-per 2014 Auditor General report

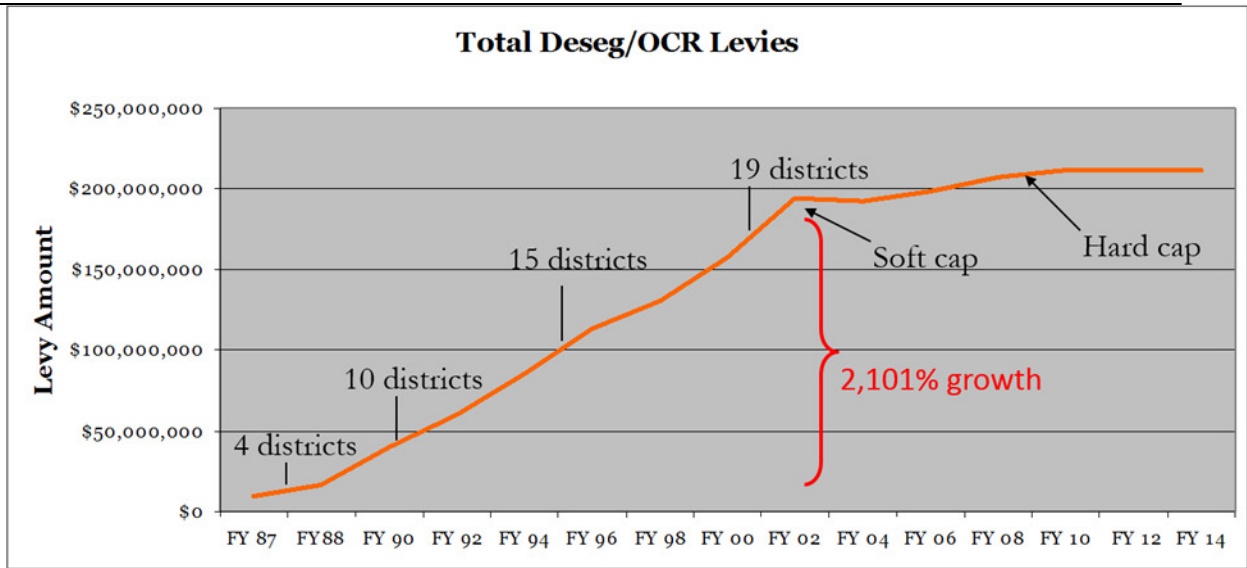
### A PHASE-OUT IS A PREREQUISITE FOR K-12 REFORM

- ◆ True statewide K-12 equity requires its removal
- ◆ Deseg/OCR rates create many “1% Cap” districts
- ◆ Would remove huge hurdle to district consolidation or unification efforts

*In a robust school choice environment, asking schools to compete with different amounts of money is unfair and likely unconstitutional.*

*“It is time that we start treating all school districts fairly. Desegregation funding pits school districts against each other and creates unfair funding advantages for one school district over another. Let’s correct this inequity now.” –Senator Debbie Lesko*

Without any limits, Deseg/OCR levies exploded until finally capped in 2009. Auditor General reports consistently show Deseg/OCR monies lack connection to original issue and supplant normal spending.



*“Phoenix UHSD’s desegregation program... has lost its clear link with the District’s original desegregation court order and appears mainly to be funding programs that have little or nothing to do with the order.” AZ Auditor General, 2008*

*“[Maricopa Unified] could not demonstrate that the monies addressed its violation because it did not have any documentation pertaining to the desegregation case, and district officials could not explain the purpose or goals of its desegregation spending.” AZ Auditor General, 2015*

## Taxpayer Inequity

School District	FY 2016 Deseg Totals	Deseg tax rate
Tucson Unified	\$63,711,047	\$2.1050
Phoenix Union	\$55,800,892	\$1.3265
Tempe Elementary	\$14,178,248	\$1.1335
Roosevelt Elementary	\$13,570,494	\$2.7257
Phoenix Elementary	\$11,151,530	\$1.8683
Mesa Unified	\$8,774,057	\$0.3393
Scottsdale Unified	\$7,382,169	\$0.1633
Washington Elementary	\$6,350,000	\$0.5759
Cartwright Elementary	\$4,628,061	\$2.2531
Glendale Union	\$6,131,959	\$0.4540
Isaac Elementary	\$4,951,155	\$4.2478
Amphitheater Unified	\$4,025,000	\$0.2868
Holbrook Unified	\$2,517,481	\$6.0388
Flagstaff Unified	\$2,241,322	\$0.2130
Wilson Elementary	\$1,946,054	\$2.4106
Agua Fria Union	\$999,000	\$0.1023
Buckeye Elementary	\$1,608,921	\$0.9607
Maricopa Unified	\$1,291,000	\$0.5320
<b>Totals/AVG</b>	<b>\$211,258,390</b>	<b>\$1.4598</b>

*In a system designed for taxpayers to pay the same property tax rates for K-12, Deseg/OCR levies create some of the most abusive tax inequities in the state. It has created a significant economic development hindrance.*

### HOW DID WE GET HERE?

- ◆ Tucson Unified & Phx Union had court orders to desegregate, feds stopped providing additional remediation funds– districts asked state for financial assistance
  - ◆ 1985 law passed to allow local tax levy (SB1077)
  - ◆ “Expenses of complying with court order or administrative agreement” A.R.S. §15-910 (G-J)
- ◆ OCR agreements never had court mandates
  - ◆ Should have never been conflated w/ Deseg orders
  - ◆ Only 17 accessed the levy before 2003 cut off
  - ◆ Many other districts have OCR agreements
- ◆ Phx Union met court requirements in 1992, applied to court in 2004 & declared unitary in 2005
- ◆ Tucson Unif. back and forth with courts since 1978
- ◆ Many OCR districts began levying several years after OCR monitoring ended; the agreement was the golden ticket
  - ◆ Isaac Elem: OCR agreement in 1975, first levy in 1992
  - ◆ Tempe El: agreement in 1971; first levy in 1990
  - ◆ Mesa Unif.: agreement in 1981; first levy in 1991