The taxpayer's watchdog for 80 years

ARIZONA TAX RESEARCH ASSOCIATION

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2021 ATRA 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 Fiscal Year (FY) 2022 state budget that is balanced and sustainable.

Prior to the coronavirus, Arizona was riding a wave of strong economic growth and the state's fiscal condition was strong. The 2020 legislative session was shortened following the passage of what was referred to as the "skinny" budget. Arizona's strong cash position was replaced with new estimates of billion dollar deficits.

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Pima College Takes Legal Path for New Expenditure Authority

Pima County voters approved Proposition 481 this past November, which saves Pima Community College District (PCC) from walking a budgetary plank. Due to enrollment declines, PCC would have had to cut spending considerably in the next few years due to state constitutional spending limits. By a 2:1 margin, voters overwhelmingly approved the measure, called a permanent change in the base limit, which roughly increases their constitutional expenditure limit by 60% for next fiscal year.

In 1980 voters created constitutional expenditure limitations to limit spending at community colleges (along with other local governments) to annual increases of no more than population (students) and inflation growth adjustments from state and local public revenues. The myriad exemptions to the limits and generous carryforward policies have largely dulled the intent of the law, however for a college facing extreme student declines, it eventually forces difficult spending reductions.

Since its peak of nearly 23,000 full time student equivalents (FTSE) in 2011, Pima College has record low enrollment at less than 14,000 FTSE. With their original plan of growing their programs looking dim, PCC faced a fiscal crisis which would demand austerity and layoffs.

The State Legislature provided a three-year bailout of sorts for Community Colleges in 2016 under SB1322, which allowed them to submit a student count based on the average of the ten most recent audited FTSE for

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Fortunately, the Arizona economy has benefited from some $32 billion in federal stimulus monies and most state revenue collections are exceeding budgeted estimates. Current estimates are that the FY 2021 ending cash balance will be $411 million with a projected ending balance for FY 2022 of $93 million.

ATRA will provide updated state budget recommendations to the Legislature after the JLBC and the Office of Strategic Planning and Budgeting (OSPB) have submitted their recommendations for the FY 2022 budget.

Taxation

Property tax reform. 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 drive 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.

Most legislative sessions include debates surrounding reforms to Arizona's tax code. ATRA believes any effort to reform Arizona's tax system should include further reductions to the class one assessment ratio with the ultimate goal of 15%. Despite the progress that has been achieved in this area, Arizona's high effective tax rates continue to be the number one tax impediment in attracting new industry to Arizona.

Prevent greater access to the property tax. For the 2020 session, ATRA will oppose efforts on the part of Arizona State and 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 obstacle to economic development, there is considerable pressure each year at the Capitol to increase access to the property tax.

In addition, ATRA will advocate for the continued compliance with the state's Truth-in-Taxation (TNT) law. Since its passage in 1998, the state has consistently complied with the TNT law. For the last five years, the Qualifying Tax Rate and the State Equalization Tax Rate have fallen as a result of 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.

Targeted Property Tax Breaks. For decades, ATRA has led the effort at the Capitol to oppose rifle-shot property tax breaks to specific industries. ATRA will continue to support policies that provide for equitable treatment among property taxpayers and oppose efforts that undermine that important policy principle.

For the 2021 session, ATRA will pursue the following legislation:

Property Tax

Reduce the assessment ratio on class one property below the current 18%.

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ATRA will support legislation to reduce the assessment ratio on class one property below the current 18% level similar to last session's SB1398. SB1398 cleared the Senate 17-12 only to become a casualty of the shortened session. (Sen. Mesnard)

Truth in Taxation

While the TNT law has been highly effective at the state level, TNT has been less transparent at the local level. Although statute requires the TNT notice be published in a newspaper of general circulation, most taxpayers affected by the tax increase never see the notice unless they subscribe to the publication. In many instances, the number of subscribers to these publications of "general circulation" represent a small percentage of the total taxpayers that reside within the boundaries of the local taxing jurisdiction. Statute currently requires the governing body to also issue a press release containing the TNT notice. ATRA will pursue legislation that requires the press release be posted on the local jurisdictions' website and that the press release include the name of the newspaper in which the TNT notice will be published and the dates of publication. (Rep. Bolick)

Property Tax Judgments

Current state statute (ARS § 15-915) requires the state equalization aid for a school district to be recalculated as a result of a change in assessed valuation from a court judgment. ATRA will pursue legislation to expand ARS § 15-915 to include a final decision of the county or state board of equalization. (Sen. Kerr)

Property Tax Rate Setting Transparency

Property tax rates and levies are adopted by County Board of Supervisors on the third Monday in August for all jurisdictions in the county. Presently, this is recorded differently in each county and presented in 15 unique formats. This creates a lack of uniformity and clarity for taxpayers and government alike. ATRA will pursue a law that requires counties also record these taxes on a standard worksheet form developed by ADOR to improve transparency, accuracy, and data sharing. (Rep. Kaiser)

Sales Tax

Prime Contracting Simplification

In 2012, Governor Brewer's TPT Simplification Task Force recommended the state "aggressively" transition from the current prime contracting tax to a tax on materials at retail. In the years following that recommendation, the Legislature changed how TPT is applied to activities involving maintenance, repair, replacement, and alteration (within certain thresholds) from prime contracting to a tax on materials at the point of sale, now known as MRRA. MRRA simplified tax compliance for contractors that only work on MRRA projects; however, contractors involved in both MRRA and prime contracting activities experienced new compliance burdens. ATRA will support legislation to simplify MRRA by eliminating the current thresholds for alteration projects, and instead, only tax contracts under prime contracting that add or expand square footage. (Rep. Cobb)

Corporate Income Tax

Extending Arizona's corporate income tax filing deadline

ATRA will pursue legislation to extend Arizona's corporate income tax filing deadline by 30 days. Currently the deadline for filing Arizona's corporate income tax returns coincides with the deadline for filing the federal corporate income tax return. This change will provide considerable administrative compliance relief to Arizona corporations as well as improve the quality of their Arizona corporate tax filings. (Rep. Bolick)

Public Finance

Transparency of K-12 School Audits

In an effort to drive more transparency over the state's largest expenditure, ATRA will pursue legislation to make it easier for private citizens to access public school audits and compliance questionnaires. Presently, many districts and charters (LEAs) do not make these available and they must be requested through FOIA. Audits often do not describe compliance with state laws and rules, making compliance questionnaires a critical tool for monitoring these agencies. Additionally, it is reported that governing board members are often unaware of the results of these audits and are either not discussed at board meetings or quietly adopted in consent agendas. If an LEA is reported by the Auditor General for noncompliance, little detail is presently provided to the State Board of Education, who is charged with enforcing remedies for noncompliance.

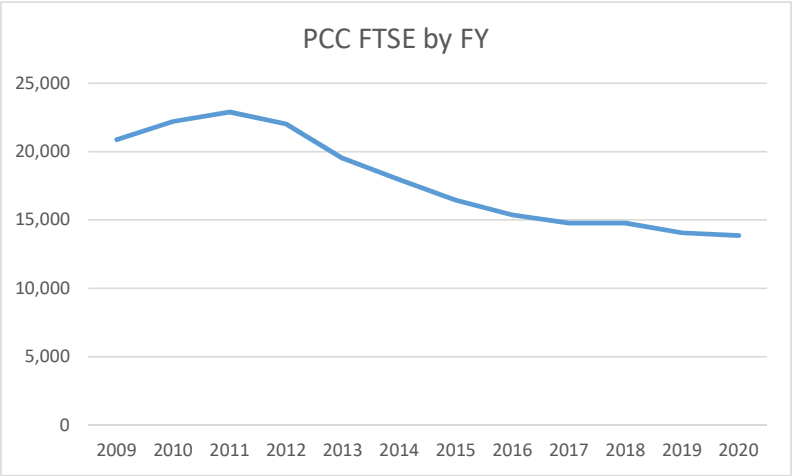
State law should demand important documents such as audits and questionnaires be made easily accessible to the public. The Department of Education already publishes budgets and the annual financial reports on their website for each district and charter; audits and questionnaires should be similarly accessible. Governing Boards should publicly accept these documents by roll call vote, closing the accountability loop on these important reviews. It also gives the board and the public the opportunity to discuss them. Finally, the bill would require the Auditor General detail in writing the deficiencies of noncompliant LEAs to the State Board and Department of Education to empower their decision making. (Rep. Udall)

Local Government Financial Audits

The local governments of counties, community colleges, cities and towns are required to have their audits completed within nine months following the end of the fiscal year. These audits are imperative to keeping local governments accountable to the expenditure of taxpayer dollars. A lot of time and money goes into these audits; however, the publication of these audits go virtually unnoticed, sometimes even among members of the governing boards. ATRA will pursue legislation that requires the auditor to present the findings of audits in a public hearing and require the governing boards to publicly accept these audits. (Sen. Livingston)

Pima College Goes to it Voters, *Continued from Page 1*

purposes of calculating the limits. With that three year window closed, the PCC FY2021 expenditure limit dropped 14% this year alone.



The law change in 2016 created a framework for calculating the expenditure limits using actual student counts, whereas before enrollments could be estimated and therefore, grossly exaggerated. Despite a five-year lookback average to help declining colleges and a 30% bump for students taking certain technical courses, the expenditure limitations now have real meaning because they can no longer be massaged. For more on the changes in SB1322, see the ATRA April 2016 newsletter.

Fundamental to the expenditure limit debate is the notion that voters created them in the State Constitution and directed that major changes be run by them through voter-approved overrides. As a fix for districts with significant challenges, ATRA advocated for allowing college districts the same voter-approved override that counties and municipalities enjoy, where the voters are asked to permanently change the base year in the calculation. Though it was included in the bill, colleges publicly decried its usefulness and used those arguments for the 30% weighting feature, which was not voter approved.

At the time of passage, colleges admitted they did not want to ask their voters for additional spending capacity. On behalf of the colleges, bill sponsor Senator Sylvia Allen admitted during a hearing that the bill was designed to avoid forcing colleges to have to face voters. Cosponsor Rep. Thorpe testified that it would be too difficult to secure a voter-approved expenditure limit increase. Instead of asking voters to change what they had put in the Constitution, college lobbyists insisted that because the limits are "archaic" and have no "practical role" that they should be provided statutory relief through student count weighting.

While ATRA has long understood these limits to have significant policy limitations, they are what the voters placed in the Constitution and therefore should be dealt with as legitimate policy features, not mere inconveniences to local governments that can be skirted with legislative workarounds.

Pima College, who was the worst offender of enrollment exaggerating to boost expenditure limit authority, ironically was the college to prove ATRA right that voters could be consulted to boost their constitutional spending. While many other colleges will continue to struggle with their expenditure limitations, Pima College is now off the hook for the foreseeable future. With high school enrollment beginning to significantly decline, most community colleges will continue to witness enrollment challenges. How colleges manage this situation is critical to not only the students but the taxpayers who contribute roughly three times the amount of tuition dollars collected statewide.

Lawmakers at the Capitol should bear in mind when local governments make the case that going to their voters is impossible, it is often because they are hoping the Legislature will simply do their work for them.

-Sean McCarthy