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ARIZONA TAX RESEARCH ASSOCIATION

ATRA OPPOSES HB2814

Providing targeted property tax breaks is bad policy

Background

HB2814 allows counties, cities and towns to provide targeted property tax breaks for businesses that have specific levels of investment in counties with population less than 800,000.

In counties with population of 250,000 but less than 800,000, the minimum capital investment is $25 million. In a county with population of less than 250,000 and for cities and towns in counties with population of 250,000 or more but less than 800,000, the minimum investment is as follows: For cities with population of 80,000 or more, $10 million; for cities with population of at least 15,000 but less than 80,000, and in unincorporated areas of the county, $5 million; for cities with population less than 15,000, $1 million. The minimum number of employment positions is determined by the city, town or county and must be paid an average of 100% of the county median wage.

Upon meeting the above requirements, the real and personal property of the qualified business is classified under class 6, which is assessed at 5% for ten years or until the development costs have been recouped, compared to all other business property, which is classified under class 1 and assessed at 18%.

Basis for ATRA's Opposition:

Arizona has considerably higher business property taxes compared to other states as a result of Arizona's long-standing policy to shift the burden from residential property (class 3), which is assessed at 10%, to business property (class 1), which is currently assessed at 18%. Based on a 2018 study published by the Minnesota Taxpayer's Association, the property tax burden on Arizona industrial property ranks 6th highest compared to other states. Lawmakers have made considerable progress in reducing the assessment ratio over the years, from 25% in 2005 to the current ratio of 18%. Furthermore, Arizona statutes provide additional depreciation on business personal property, commonly referred to as "accelerated" depreciation, within the first five years of acquisition. The Legislature has enhanced the accelerated depreciation schedule several times over the last decade in an effort to encourage businesses to purchase new equipment. Factoring in the benefits of accelerated depreciation for businesses dramatically improves Arizona's ranking compared to other states.

Proponents are correct that Arizona's high business property taxes are an impediment to economic development in Arizona. Those high business property taxes are the result of the inequities in Arizona's property tax system. However, their misguided approach to dealing with high business property taxes by creating targeted tax breaks actually creates more inequities in the property tax system and higher taxes on all other taxpayers, including existing businesses and homeowners. Arizona's high business property tax problem should not be solved by targeted relief to select businesses thereby making taxes even higher for other business taxpayers.

Additionally, the Arizona Constitution under Article 9, Section 1, states that "all taxes shall be uniform upon the same class of property within the territorial limits of the authority levying the tax." While the courts have given the Legislature broad discretion in creating different classes of property, they have also cautioned that those distinctions in use, purpose or industry must be “real” and not be “arbitrary, specious or fanciful.” In addition to being bad policy, ATRA believes that creating such disparate tax treatment between identical companies in the same taxing jurisdiction based solely on the size of the investment is unconstitutional.

The only thing worse than passing this legislation is to have the law pass and have businesses make the required level of investments with the anticipation of receiving huge tax incentives, only to have the law invalidated by the courts.

ATRA believes that the property tax breaks provided in HB2814 are bad policy and serve to exacerbate problems in Arizona’s property tax system.