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ARIZONA TAX RESEARCH ASSOCIATION

MAJORITY RULE (Prop 105)

Summary of key provisions:

The initiative amends the Arizona Constitution to provide the following:

To preserve and protect the right of the people to fiscal responsibility through true majority rule, an initiative measure that establishes, imposes or raises a tax, fee, or other revenue, or mandates a spending obligation, whether on a private person, labor organization, other private legal entity of this state, shall not become law unless the measure is approved by a majority of the qualified electors then registered to vote in this state.

Currently, any initiative that qualifies for the ballot becomes law if approved by the majority of votes cast on the measure.

ATRA Policy Issues:

Ballot-Box Budgeting

For decades, ATRA has expressed its opposition to ballot-box budgeting. Ballot-box budgeting refers to a variety of different efforts to establish state expenditure and taxation policy at the ballot instead of at the State Capitol. History has certainly vindicated ATRA's policy concerns with ballot-box budgeting. Regrettably, too many of the ballot-box budgeting efforts that ATRA has opposed have become law. The result is a state budget that has been complicated by initiatives and referendums that raise taxes, earmark funds outside the appropriations process, and prescribe and guarantee funding levels for a multitude of programs. Since 1998, the negative consequences of ballot-box budgeting were heightened by the passage of Proposition 105, the measure that limits the Legislature's authority to modify a voter approved initiative.

The following are the major efforts at ballot-box budgeting that ATRA has opposed:

- 1990 – Proposition 103 (ACE Initiative) guaranteed funding for K-12 schools

- 1990 – Proposition 200 (Heritage Fund) guaranteed funding for open space and parks
- 1992 – Proposition 108 (It's TIME) 2/3 vote to increase general fund revenue
- 1994 – Proposition 200 (Tobacco Tax and Health Care Act) raised the tobacco tax 40 cents and created guaranteed funding for health care
- 1996 – Proposition 200 (Drug Medicalization Act) earmarked luxury taxes on liquor to drug treatment programs
- 1998 – Proposition 200 (Clean Elections Act) diverted existing revenues and earmarked them for candidates for statewide office
- 2000 – Proposition 301 – half-cent sales tax increase for K-12 and mandatory spending obligations for student growth and inflation
- 2000 – Proposition 107 (Income Tax Repeal) would have eliminated state individual and corporate income taxes
- 2002 – Proposition 303 (Tobacco Tax/Health Care) referred by the Legislature, increased tobacco taxes 60 cents and earmarked funds for health care
- 2006 – Proposition 203 (Tobacco Tax/Early Childhood) increased tobacco taxes 80 cents and earmarked funding for early childhood programs
- 2006 – Proposition 106 (State Land) earmarked trust fund monies to the State Land Department

ATRA has supported several different efforts that attempted to reform the initiative process and restore some sanity to fiscal policy development at the state level. In 2004, ATRA supported two reforms, Proposition 101 and 104 that made small steps toward initiative reform. Fortunately, Proposition 101, which required a dedicated funding source for required expenditures, passed. ATRA also supported the more comprehensive initiative reform effort advanced by Rep. Kirk Adams in the last two legislative sessions. That experience left most participants very cynical about the prospects for comprehensive initiative reform. ATRA believes Majority Rule prescribes a specific initiative reform in the area that is most problematic for Arizona taxpayers.

Further, the fact that Majority Rule will limit future use of the initiative process for ballot-box budgeting and raising taxes is entirely consistent with the current constraints placed on referendums by the Constitution and the Arizona courts. While the Arizona Constitution provides citizens the power to both propose laws and refer acts of the Legislature to the polls, it specifically limits the authority of the citizenry from referring the annual budget. The framers of the Constitution, while clearly reserving the citizen's right to both enact and reject laws, obviously did not want that power extended to laws "for the support and maintenance of the Departments of the State and of State institutions." In fact, the Arizona Court of Appeals (*Wade v. Greenlee County, 1992*) interpreted this provision to also prohibit citizens from referring a tax increase that was necessary to "support" the state budget.

It is clear that both the Constitution and the courts draw a distinction between policy issues that the citizens can exercise control over through referendum versus budget and tax policy that are best developed through elected representatives at the Capitol.

While Majority Rule does not extend the same limitation on voters' initiative rights that exist for referendums, the practical effect will be similar. Put simply, Majority Rule will significantly decrease the number of initiatives placed before the voters that propose raising taxes and spending. While some will argue that Majority Rule is a clever attempt to limit the citizenry's initiative powers, ATRA believes its ultimate effect promotes a sound public policy and an initiative reform that is desperately needed.

ATRA Position: Support