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ARIZONA TAX RESEARCH ASSOCIATION

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Ad hoc committees ready to commence work

ATRA board members receive key appointments



Russell Smoldon



John Colton



Martin Shultz



Michael Galloway

Appointments were announced this month to several important ad hoc committees that are now poised to begin work on innumerable tax and fiscal reform issues. Among the appointees are four members of ATRA's Board of Directors and two ATRA staff members.

TAX REFORM

The Tax Reform for Arizona Citizens (TRAC) Committee, established by House Bill (HB) 2178, is charged with studying and making recommendations on Arizona's fiscal and tax policies, including, among other things, "specific consideration of expansion of state resources and economic development strategies." (See *ATRA Newsletter*, May 2002.)

Legislative appointees to the TRAC Committee include State Representatives Camarot, Giffords, Leff, and May. State Senators on the committee include Brown, Bundgaard, Daniels, and Valadez.

Appointed by the Speaker to represent the business community is **Russell Smoldon**, manager of state and local government relations for the Salt River Project and past chairman of ATRA's Board of Directors.

The Senate President surprised many members of the business community by

appointing University of Arizona president Peter Likens as the second business community representative.

Representing "a statewide taxpayer organization" is ATRA president **Kevin McCarthy**.

Other appointees to the TRAC Committee include Maricopa County Supervisor Andy Kunasek; and Glendale Mayor Elaine Scruggs; and Ephram Cordova.

FISCAL ACCOUNTABILITY

Another ad hoc committee established by HB 2178 to consider integrating services and eliminating duplicative programs in Arizona's expenditure policies is the *Arizona Fiscal Accountability Committee*.

Legislative members include Representatives Burton Cahill, Giffords, Knaperek, and Nelson; and Senators Bee, Brown, Cirillo, and Solomon.

One of two appointments intended for business community representatives went to **Martin Shultz**, vice president of government affairs for the Pinnacle West Capital Corporation and long-time ATRA Board member.

Representing the general public is ATRA board member **John Colton**, founder and

chairman of Colton Constructors.

ATRA vice president **Michael Hunter** was appointed as the taxpayer organization representative.

Other appointments to the Fiscal Accountability Committee are Mark Chernoff of Lavoy & Chernoff; Elliot Hibbs, Arizona Dept. of Administration; Kim Sheane, Arizona Community College Assoc.; and Kerrie Bluff,

Mingus Union High School District Governing Board.

OTHER COMMITTEES TO WATCH

Joint Study Committee on State Funding of the Court System: **Michael Galloway**, a tax attorney with Quarles & Brady Streich Lang and an ATRA board member, has been appointed to the committee. Legislators will include Representatives Brotherton, Pearce, and Robson; and Senators Bee, Cirillo, and Rios.

School District Unification and Consolidation Commission: **Michael Hunter** will serve as the representative of a taxpayer organization. Representatives Landrum-Taylor, McClure; and Senators Aguirre, Bee, Jarrett have been appointed.

Joint Legislative Income Tax Credit Review Committee: Appointments include Representatives Camarot, Chevront, Knaperek, Leff, and May; and Senators Brown, Bundgaard, Cirillo, Daniels, and Valadez.

Joint Legislative Committee on Desegregation Expenses: Representatives Gray, Huffman, Lopez, and Pickens; and Senators Aguirre, Bee, Daniels, and Hartley have been appointed.

WHO'S IN CHARGE HERE?

School districts ignore recent legislative reform efforts, exacerbate state budget crisis

Two recent developments, following almost immediately upon legislative reform efforts, demonstrate clearly just how exposed taxpayers and the state general fund are as a result of unlimited taxation authority provided to many school districts.

ATRA has been telling lawmakers for years that Arizona's school public finance system is broken. State laws intended to achieve and maintain equity in the treatment of taxpayers and pupils are contradicted by other state laws that permit, even encourage, inequity and a lack of accountability.

In the years that followed Arizona's efforts 20 years ago to equalize public school funding, legislative action and inaction have resulted in a system that leaves taxpayers and the state general fund exposed to unequal, uncontrolled, and duplicative public school spending.

Meanwhile, the system allows pupils and teachers in some districts to be funded at levels often far below those in other districts.

While ATRA has had considerable success reforming several areas of school finance, recent property tax increases by school districts for excess utilities and desegregation, despite laws intended to rein in these out-of-control areas of taxation and spending, should provide a wake up call to lawmakers and taxpayers that much more work needs to be done.

How the State's efforts to cap excess utilities resulted in \$13.4 million more of it

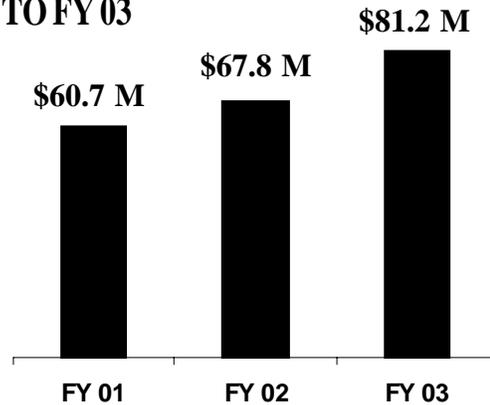
Part of Legislature's strategy to balance the fiscal year (FY) 2003 budget during the last regular session included an effort to place a two-year cap on school districts' ability to increase their budgets for excess utilities. It did so to protect the state general fund from increases in the subsidies it pays to school districts for the 35% "homeowner rebate" and, in some instances, the one-percent constitutional cap on primary property taxes.

"Excess utilities" refers to a statutory formula that determines the amount a district spends on utilities (heating, cooling, electricity, telephone, etc.) in proportion to what it spent in 1985. Any utilities expenses in excess of that amount (thus excess utilities) result in what amounts to a budget override funded by primary property taxes without a voter approval requirement.

Proposition 301 enacted laws that, after FY 2009, eliminates the ability for school districts to exceed their budget limits and levy property taxes for excess utilities.

BUDGETED EXCESS UTILITIES

FY 01 TO FY 03



However, Prop. 301 did not cap excess utilities or phase it out. Meanwhile, budgeted excess utilities expenditures increased from \$60.7 million in FY 2001 to \$67.8 million in FY 2002.

The Legislature's decision to place a two-year cap on excess utilities was a direct result of ATRA's support for legislation during the last two sessions to cap excess utilities budgets at current levels.

A fiscal note from the Joint Legislative Budget Committee (JLBC), assuming a two-year average growth of 8.5%, pegged the FY 2003 savings at \$1,077,100 and the FY 2004 savings at \$2,245,800. These figures represent projected amounts the state would have had to pay (without the freeze) to school districts in "additional state aid" because of the 35% homeowner rebate and the constitutional one-percent cap on homeowner property taxes.

However, legislation requiring the needed cap did not address the fact that districts can revise their budgets in certain areas prior to a May 15 deadline. It did not take long for school district lobbyists to spread the word about the loophole. ATRA informed lawmakers that the revisions were taking place, as well as their impact on the budget they were about to adopt. Although adequate time existed to close the loophole, efforts to amend the legislation were unsuccessful.

Data from the Arizona Department of Education (ADE) shows that net changes to budgeted excess utilities during FY 2001 totaled \$3.8 million. This year, school district budgeted expenditures for excess utilities increased 19.8% over the \$67.8 million the Legislature intended as the cap. In all, school districts increased excess utilities by \$13.4 million for a grand statewide total of \$81.2 million.

See *School districts* on page 3

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School districts resist reforms

Continued from page 2

How PUHSD exceeded its legally allowable property tax levy and nobody had the authority to stop it

On August 19, the Maricopa County Board of Supervisors adopted a primary property tax levy for the Phoenix Union High School District (PUHSD) that is nearly \$2.3 million higher than is authorized by state law. The amount had also been disallowed by ADE.

ATRA requested that the county school superintendent's office and the board of supervisors exclude from PUHSD's primary rate the amount associated with the \$2.3 million. Here's the story.

On April 24, 2002, Governor Hull signed into law House Bill (HB) 2550 (Laws 2002, Chapter 68), which placed a two-year freeze on school districts' authority to increase their budgeted expenditures for desegregation. The Legislature passed this bill in part to hold expenditures constant while they examine this complex and controversial issue. Lawmakers also, however, relied upon the passage of HB 2550 to achieve a state general fund savings of \$4.8 million for FY 2003 and \$10.1 million in FY 2004. These estimated savings are based on the state not having to pay the homeowner rebate and one-percent cap costs associated with increases in desegregation levies.

On May 2, PUHSD revised their FY 2002 budget, increasing budgeted desegregation capital expenditures by \$2,260,577 to \$5,217,927. Thus, the total budgeted desegregation expenditures (M&O and capital combined) went from \$46,440,079 to \$48,700,656.

On June 18, ADE informed PUHSD by letter that "Arizona Revised Statute does not provide for an increase of budgeted desegregation expenditures after the adoption of the budget." ADE further informed PUHSD that "The increase has been disallowed."

On June 27, PUHSD adopted their FY 2003 budget in which the budgeted desegregation expenditures include the increased amount from the May 2 revision.

On July 15, a letter from ADE's Associate Superintendent, Scott Thompson, again confirmed the Department's position that the increase would not be allowed.

In summary, PUHSD did not have statutory authority to increase its desegregation expenditures after the original adoption of the FY 2002 budget. In addition, the freeze enacted by HB 2550 was based on originally adopted FY 2002 budgets. Therefore, the amounts budgeted for desegregation in FY 2003 cannot legally exceed the amounts originally adopted in FY 2002.

Demonstrating a serious gap in accountability for school tax levies, ADE, the county school superintendent and the county attorney all told ATRA that they had no authority to stop the illegal levy.

This increase resulted in an unanticipated impact on the state general fund. But more importantly, allowing PUHSD to levy this additional \$2.3 million resulted in a tax rate approximately 6 cents higher than it should have been under the law. It may be argued by some that monies levied in excess of what districts can spend are returned to taxpayers in subsequent years when unspent excess monies are used to reduce tax rates. However, such circumstances frequently do not result in taxpayers being made whole, for a variety of reasons. The best policy is for taxing authorities to levy, as accurately as possible, the correct amount necessary to fund government operations within legal restrictions.

In its broad outlines, Arizona's school finance system is premised upon the existence of some legal restrictions to school district taxing authority. Yet time and time again school districts demonstrate to taxpayers that the notion of any such restrictions is an illusion. Even when state lawmakers attempt to limit school district access to property taxes and the general fund, as these cases show, they are unable to do so.

Agencies at the state and county level certainly exist to extract taxes from their citizens. What conclusions are taxpayers to reach if those same agencies cannot ensure that the appropriate taxes are being levied by local taxing authorities?

Michael Hunter

Attention ATRA Members

ATRA's 2002 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, 2002, 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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County primary property taxes climb \$51.3 million over last year

Total county primary property taxes grew by 9.1%, a \$51.3 million increase over last year, bringing total primary levies to \$612.9 million in tax year 2002. Maricopa County drove this year's increase by levying \$25.3 million over last year.

Greenlee County adopted the largest rate increase, with their primary rate increasing nearly 26 cents. However, it should be noted that this is the first year following a statutory decrease in the levy as a result of the county exceeding their expenditure limit two years ago.

Following Greenlee is Santa Cruz County, with a 10-cent rate increase, and Coconino, in which county officials adopted a 7-cent rate increase.

Fourteen out of 15 counties were required to hold truth in taxation (TNT) hearings this year.

TNT laws require state and local governments to recognize the assessor's valuation increases when establishing tax rates each year. Jurisdictions that choose not to adjust their tax rate to offset the

increased taxes associated with valuation growth are required to hold a public hearing on the tax increase.

The largest increase occurred in Pinal County, in which the county adopted a primary rate that is 30 cents over the calculated TNT rate.

Both Greenlee and Santa Cruz counties are levying rates that are more than 21 cents over TNT levels, followed by Gila County, which is levying nearly 14 cents over the TNT rate.

Jennifer Schuldt

County	Actual Levy TY 2001	Adopted Levy TY 2002	Primary Levy Increase	Actual Rate TY 2001	Adopted Rate TY 2002	TNT Rate	Rate Increase Over TNT
Apache	\$1,021,763	\$1,001,954	-\$19,809	0.3519	0.3632	0.3813	(0.0181)
Cochise	\$14,807,825	\$15,794,952	\$987,127	2.9373	2.9373	2.8690	0.0683
Coconino	\$3,531,465	\$4,354,424	\$822,959	0.3433	0.4153	0.3427	0.0726
Gila	\$13,629,638	\$14,624,715	\$995,077	4.4100	4.4100	4.2736	0.1364
Graham	\$1,645,167	\$1,736,915	\$91,748	1.7912	1.7912	1.7820	0.0092
Greenlee	\$606,740	\$1,039,574	\$432,834	0.3176	0.5764	0.3624	0.2140
La Paz	\$2,520,195	\$2,711,525	\$191,330	2.2500	2.2500	2.1362	0.1138
Maricopa	\$252,676,223	\$277,949,612	\$25,273,389	1.1832	1.2108	1.1661	0.0447
Mohave	\$17,357,935	\$18,283,834	\$925,899	1.7500	1.7500	1.7158	0.0342
Navajo	\$3,543,301	\$3,890,835	\$347,534	0.6506	0.6909	0.6515	0.0394
Pima	\$177,599,995	\$190,135,349	\$12,535,354	4.0720	4.0720	3.9730	0.0990
Pinal*	\$32,277,736	\$37,573,936	\$5,296,200	4.5963	4.5963	4.2894	0.3069
Santa Cruz	\$7,014,033	\$7,637,148	\$623,115	3.2487	3.3487	3.1347	0.2140
Yavapai	\$20,580,000	\$22,310,000	\$1,730,000	1.6066	1.6072	1.5492	0.0580
Yuma	\$12,732,082	\$13,826,873	\$1,094,791	2.3180	2.3180	2.2380	0.0800
	\$561,544,098	\$612,871,646	\$51,327,548	2.1218	2.1558	2.0577	0.0982
	Levy Totals			Tax Rate Averages			