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ARIZONA TAX RESEARCH ASSOCIATION

NEWSLETTER VOLUME 65 NUMBER 7 SEPTEMBER 2005

GOV'S VETO ALLOWS RATES TO INCREASE IN HIGHLY BURDENED SCHOOL DISTRICTS

Hayden-Winkelman Unified's primary rate hiked over two bucks to $11.89

On April 22, 2005, Governor Janet Napolitano vetoed HB 2143, a bill that would have prevented growth in extremely high school district primary tax rates under certain conditions. The veto was unwelcome news for highly burdened taxpayers in a handful of school districts as they saw tax rates increase yet again this year.

HB 2143, introduced by House Ways & Means Chairman Steve Huffman, was the result of a recommendation from the Tax Reform for Arizona Citizens (TRAC) Committee. One focus of the TRAC Committee was the one-percent constitutional cap on primary property taxes for residential property taxpayers.

The One-Percent Cap

The Arizona Constitution caps residential primary property taxes at one percent of the limited value. This constitutional provision does not cap property tax rates once the one-percent cap is reached. Instead, state statute requires the state general fund to make up the difference in the amount of taxes owed in excess of the cap on residential primary taxes.

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JTED MESS GETS WORSE

Legality of property tax increases in two districts questioned

For the last several years joint technological education districts (JTEDs) have been the subject of considerable scrutiny at the State Capitol. Recent actions by two JTEDs to increase their property tax rates have added a new item to a long list of problems associated with Arizona's 10 JTEDs.

The Northern Arizona Technological Institute of Vocational Education, raised its tax rate from $0.05 to $1.25 for 2005, a 2400% increase. The district, which goes by the acronym "NATIVE," includes several unified school districts in the northern Navajo and Apache counties: Pinon,Kayenta, Chinle, Red Mesa, Ganado, Window Rock, and Sanders.

The Valley Academy of Career and Technology Education, or VACTE, encompassing the Mingus Union, Camp Verde, and Sedona-Oak Creek school districts, increased its rate from $0.05 to 0.0605 per $100 of assessed valuation.

JTEDs are special taxing jurisdictions intended to increase efficiencies in the delivery of vocational and technological education. State law allows school district governing boards to put to voters

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MARK YOUR CALENDAR

ATRA Golf Tournament	Outlook Conference
November 17	*November 18*

Property valuations climb 10%

5-year growth at 54%

Arizona's secondary net assessed values (NAV) climbed 10% for tax year 2005. The $4.5 increase is the largest dollar increase on record and considerably higher than last year's growth of $3.6 billion. Since 2000, statewide NAV has grown $17.1 billion, a 54% climb. Roughly half of the $4.5 billion increase was attributed to new construction. (New construction data is available through county levy limit calculations however it is available for primary values only).

Maricopa County accounted for 70 percent of the 2005 growth with values climbing $3.1 billion (10.4%). Again, roughly half of Maricopa's growth is driven by new construction.

The largest percentage increase in valuations (19.3%) occurred in Greenlee County as result of higher valuations in mining property. Mohave County continues to experience dramatic growth with valuations climbing 16.3% this year. Two other counties experiencing double-digit growth were Pinal (13.2%) and Yavapai (13.2%). After showing a 14% increase in 2004, La Paz County's secondary NAV actually dropped 0.6% in 2005.

Owner-occupied homes accounted for 66% of the increase in NAV this year, followed by commercial and industrial property at 24%. Rental residential property showed the sharpest percentage growth of any class of property, jumping 15.6%.

JTEDs *Continued from page 1*

the question of participating in a JTED. If successful, as all have been thus far, a qualifying tax rate (QTR) of five cents is applied to the property tax base of each of the member school districts to generate local revenue that, along with state appropriations, are the main funding sources for JTEDs.

In each of these JTED elections, voters were asked to approve their school district's membership in a JTED with the understanding that the rate would be five cents. The public debate, informational materials and, in numerous cases, even the ballot language itself, were unambiguous in the communication of the tax exposure.

The official proposal for the VACTE district made the following promise to voters:

This means that a homeowner with a home that is assessed at $100,000 . . . will pay an additional $5 tax each year. The tax rate will never go higher unless the voters approve such.

The ballot that was actually put to voters to decide the question of JTED membership for the NATIVE district also made the tax implications clear:

The Governing Board of __________ petitions voters to authorize the school district, in accordance with A.R.S. 15-392, to form a Joint Technological Education District, Northeast Arizona Technological Institute of Vocational Education (NATIVE) at a tax rate of $0.5 per $100 of assessed valuation.

Despite such promises, district officials in both VACTE and NATIVE argued that state law requires counties to levy property taxes at the level requested by district. Because the fiscal year (FY) 2006 state budget froze appropriations to most JTEDs at FY 2005's levels, but did not explicity restrict their spending authority, these two JTEDs maintain that they are at liberty to increase their tax rates to make up the difference between their adopted budgets and actual state aid.

Other JTEDs chose not to use this rationale to increase their tax rates, although several were in a similar situation with regard to state appropriations.

County officials in Navajo, Apache, and Yavapai counties, many of whom had raised concerns about the legality of the rate hikes, asked for guidance from the Arizona Department of Education (ADE) and the State Attorney General (AG). So far, the AG's office has not opined on the matter.

Meanwhile, ADE communicated to the counties their desire not to get involved. A memorandum from Vicki Salazar, ADE's Associate Superintendent of Business, Information and Finance contained the following messege:

After reviewing current legislation it is the Department's opinion that this is a local issue that must be addressed with your County School Superintendent and your County Attorney's Office.

Lacking guidance from the state, county officials seem divided on the issue. Ultimately, counties adopted the rate increases, taking the troublesome position that, despite their legal and procedural requirement to officially adopt rates, values, and levies for local governments within county boundaries, they are merely a pass through and have no authority over the taxing decisions of districts or municipalities, even if those decisions are in error or illegal.

Tuba City Unified in Coconino County also joined the JTED in November 2004. However, Coconino County officials said that taxes will not be levied this year in Tuba City on behalf of NATIVE.

"I am disgusted," said Bryan Detwiler, a governing board member from the Mingus Union High School District who testified in opposition to the tax increase at the VACTE budget meeting. "We're being set up for more tax increases in the future."

JTED Finance Problems and Spending Caps

A report from the State Auditor General published in December 2004 confirmed numerous criticisms that ATRA had communicated to the Legislature for years regarding JTEDs.

JTEDs were originally conceived as opportunities to increase efficiency by centralizing the investment in vocational training facilities and technology. Growth in so called "satellite" JTED courses conducted in high schools and community colleges goes counter to the original purpose for JTEDs and has resulted in redundant and exaggerated student counts and otherwise inefficient funding. Another issue examined by the Auditor General was the substantial amount of JTED dollars being used to supplant existing programs at members school districts.

The first two JTEDs, the East Valley Institute for Technology (EVIT) and the Northern Arizona Vocational Institute of Techology (NAVIT), in operation since the early 1990s, were joined by six newly-formed JTEDs in FY 2002. This development caused a sizeable jump in state funding demands. Coupled with ATRA's recommendations that the Legislature reform JTED finance with an eye toward increasing efficiency and avoiding redundancy, the Legislature enacted a series of moratoriums and funding freezes impacting JTEDs starting in FY 2003.

The history of these efforts to control JTED growth and spending demands has provided a very instructive case study in the Legislature's inability to manage Arizona's finances.

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Serving Arizona's taxpayers since 1940.

1814 W. Washington Street
Phoenix, Arizona 85007
(602) 253-9121
FAX (602) 253-6719
www.arizonatax.org
atra@arizonatax.org

JTEDs

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The FY 2003 moratorium prohibited the establishment of new JTEDs and the expansion of boundaries for the existing ones for two years. However, the Legislature allowed exceptions for JTEDs that had already been officially proposed by members school districts.

At the time, the Legislature was aware of only one newly proposed JTED, the Western Maricopa Education Center (West-MEC). A condition placed on this new JTED, however, was that their enrollment could not exceed 450 students for their first two years of operation. The enrollment cap was designed to ensure that West-MEC property tax levy would cover their entire budget.

Unbeknownst to the Legislature, however, was that numerous other school districts had officially resolved to ask their voters to form a JTED that ultimately became known as NATIVE. These member districts have comparatively low taxable value. So, while both West-MEC and NATIVE began operations in FY 2004, only West-MEC was impacted by the spending freeze.

Another exception provided by the Legislature — further eroding the fiscal control intended in the first moratorium — allowed districts to join existing JTEDs as long as they shared a border with a current member district or received approval from their governing board by March 7, 2002 and from their voters by the November elections of that year. Again, this provision resulted in several districts joining JTEDs throughout the state.

For FY 2005, the original moratorium was amended to remove the 450-student cap and instead cap a new JTED's state aid at the FY 2004 level. West-MEC's had argued that they should be allowed to increase their enrollment, even if they were not going to receive any state appropriations for that year.

This year, the Legislature took a different approach. The state's K-12 budget bill, HB 2767, froze state appropriations to JTEDs for FY 2006 at the level appropriated in FY 2005. However, to increase funding to West-MEC, the appropriated amount would be double the amount generated by the nickel property tax rate. This calculation also allowed an increase for the Coconino Association for Vocations, Industry and Technology (CAVIAT).

The FY 2006 appropriation cap is in effect, however, for the other eight JTEDs, providing the rationale for NATIVE and VACTE to increase their property tax.

Those who have been involved in discussions at the Legislature on the topic of JTEDs will acknowledge that the tax increase in VACTE and NATIVE are contrary to legislative intent. In fact, increasing the local property tax has occasionally appeared on a list of options on how to reduce the exposure of the state general fund caused by JTED growth.

For example, during the 2002 legislative session, JLBC provided an analysis to the appropriations committees detailing scenarios where the five-cent rate is increased to 10 cents or 15 cents, thereby reducing the state's share in the equalization formula. Similarly, Senate Appropriations Chairman Bob Burns proposed a plan during the 2005 session that would have phased out all state funding and allowed a higher, though limited, tax rate. In both instances the proposed tax increase would have gone into effect only upon receiving voter approval.

HB 2418 and the Task Force on Joint Technological Education

A strong supporter of JTED's, House Education Committee Chairman Mark Anderson introduced legislation during the last session to address some of the problems articulated in the Auditor General report. After numerous versions and debates, HB 2418 was enacted containing several compromise provisions that represent, in ATRA's view, a fairly weak response to the array of JTED problems. However, some of the provisions in the legislation are pointed in the right dirction. For example, of HB 2418 includes the following:

- Maintains a student count cap of 1.25 for students attending both a high school and a JTED in the same location.
- Excludes students in K-8 enrolled in a course offered by a JTED from inclusion in a JTED's student count calculations for funding purposes and prohibits any JTED monies from being used for students in K-6.
- Provides a schedule for school districts that had supplanted programs with JTED monies to return to the previous status by FY 2008 and prohibits any supplanting in the future.
- Requires JTEDs to include in their student count only pupils in grades 9-12 if the pupils are enrolled in approved courses. Courses that are not part of an approved program for career and technical education shall not be counted for funding purposes.
- Continues the cap on the formation or growth of a JTED for FY 2006, with the exception of Pima County school districts.
- For FY 2006 only, limited JTED student counts to 0.5 for students being taught on community college campuses and prohibited colleges from counting JTED students that are taught at a location other than a college.

HB 2418 also establishes the *Task Force on Joint Technological Education Districts* consisting of legislative members appointed by the President and the Speaker. The bill requires the *Task Force* to evaluate and make specific recommendations concerning the state and local funding governance, course offerings of JTEDs, as well as partnerships with school districts and community colleges. The Speaker has appointed Representatives Mark Anderson (co-chair), Tom Boone, and Olivia Cajero Bedford. The Senate President has appointed Senators Bob Burns, Ron Gould, and Richard Miranda. A report is to be submitted by December 1, 2005.

Michael Hunter

VETO

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While the one-percent cap achieves the goal of protecting residential taxpayers from excessive taxation, it also has the unintended consequence of actually encouraging primary property tax rate increases. Once residential taxpayers are insulated from paying for further tax rate increases, local governments are allowed to shift the costs of those tax increases to the state general fund. Further, because the one-percent cap only applies to residential property, all other property taxpayers (business, agriculture, vacant land, etc.) continue to pay these excessive rates.

HB 2143 represented a modest effort to address the serious problems associated with the one-percent cap by preventing tax rate increases in school districts where:

- At least 50% of the residential property value of the district exceeds the one-percent cap. (*This helps ensure that the district is primarily responsible for the high overall primary rate.*)
- The school district primary rate exceeds 150% of the qualifying tax rate (QTR) set each year by the Legislature. (*This further ensures that the district has a primary rate considerably higher than required by state law.*)

In her veto message, Governor Napolitano argued that "Imposing this type of cap on school district tax rates would involve an inappropriate intrusion on local control."

The Governor goes on to say that HB 2143 "would further exacerbate the discrepancies in per pupil education spending levels among high and low property wealth districts, making Arizona further susceptible to challenges that it has failed to maintain a general and uniform system for funding education."

The assertion that HB 2143 represents an "inappropriate intrusion on local control" ignores the fact that school district primary tax rates are not a matter of local control. The Legislature and the Governor are responsible for laws governing school finance and, ultimately, the level of primary taxes levied.

Further, "discrepancies in per-pupil education spending levels among high and low property wealth districts" — not to mention inequities in property tax burdens — are in fact caused by state laws that turn a blind eye on the circumstances of many school districts and their taxpayers in Arizona.

Some areas of this state are faced with extraordinarily high tax burdens and disparate per-student spending levels. The Legislature and Governor have a constitutional responsibility to help resolve such problems.

ATRA has advocated that the Legislature take steps to reform state laws and funding mechanisms underlying most of the taxpayer and school spending inequities. School district levies for desegregation, excess utilities, the small school district adjustment, transportation funding, and other problem areas of school finance are all examples of state laws that, as the Governor put it, "exacerbate the discrepancies."

Admittedly, resolving school finance problems can be difficult for state policymakers. However, HB 2143 was a simple, straightforward effort to stop further exposure for taxpayers who are now paying taxes at confiscatory levels. The inability of the Governor to cooperate in such a reform does not bode well for meaningful work that needs to be done on larger issues.

School district primary rate increases that would have been prevented by the enactment of HB 2143

School District	2004	2005	Increase
Hayden Winkelman Unified	$9.7120	$11.8875	$2.1755
Bowie Unified	$9.9236	$10.5605	$0.6369
McNeal Elementary	$7.4211	$7.5790	$0.1579
Maricopa Unified	$6.1056	$6.1208	$0.0152

Committee on Hayden Property Taxes Adopts Recommendations

The Joint Legislative Study Committee on Hayden-Winkelman Property Taxes held its last meeting on September 15, 2005, adopting several recommendations intended to deal with a community with the dubious distinction of having the highest combined tax rates in the State of Arizona, and perhaps in the nation. (Please see table on page 5.)

The Committee recommended that the Arizona Department of Education and State Attorney General assess the applicability of statutes relating to gross financial mismanagement to circumstances in the Hayden-Winkelman Unified School District. Simarly, the committee recommended that these laws be amended to require an analysis in light of the gross financial mismanagement laws in a case where a school district's combined tax rate exceeds $15.00 per $100 of assessed value.

Also recommended was that the Legislature appropriate approximately $2.3 million to finance a proposed "cash out" agreement wherein bondholders, acknowledging the probability that the Hayden-Winkelman Unified School District will default on its debt obligations or file for protection under Chapter 9 of the Bankruptcy Code, are willing to accept cents on the dollar to relieve the district and its taxpayers of their debt.

This relief would be loaned by the state to the school district once the Town of Hayden's Town Council and the Hayden-Winkelman Unified School District's Governing Board have each adopted resolutions by the end of 2005 to initiate disincorporation of the town and consolidation of the school district with the Ray Unified School District.

The Legislature would forgive the Hayden-Winkelman Unified School District of its obligation once disincorporation of the town and consolidation of the school district have been realized.

The Committee further recommended that the State Legislature enact laws to protect taxpayers in such extreme circumstances as

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Property tax rates for all taxing authorities in Hayden, 1999-2005

	1999	2000	2001	2002	2003	2004	2005
HWUSD (primary)	4.5927	6.0578	7.5050	7.8742	10.0720	9.7120	11.8875
(secondary)	11.8457	13.9424	14.7854	16.0355	23.7403	15.9769	12.0797
Town of Hayden (primary)	12.0582	15.0946	15.0700	15.0700	22.8816	23.0500	22.8816
Gila County (primary)	3.9700	3.9700	4.4100	4.4100	4.4100	4.4100	4.4100
County (state) Ed (primary)	0.5217	0.5123	0.4974	0.4889	0.4717	0.4560	0.4358
FDAT (secondary)	0.1000	0.1000	0.1000	0.1000	0.1000	0.1000	0.1000
Gila College (primary)	0.0000	0.0000	0.0000	0.0000	0.6288	0.6288	0.6288
(secondary)	0.5775	0.5844	0.5892	0.5823	0.0000	0.0000	0.0000
Library (secondary)	0.2425	0.2000	0.2000	0.2000	0.2000	0.2000	0.2000
CVIT (secondary)	0.0000	0.0000	0.0500	0.0500	0.0500	0.0500	0.0500
Total Primary	**21.1426**	**25.6347**	**27.4824**	**27.8431**	**38.4641**	**38.2568**	**40.2437**
Total Secondary	**12.7657**	**14.8268**	**15.7246**	**16.9678**	**24.0903**	**16.3269**	**12.4297**
Combined Total	**33.9083**	**40.4615**	**43.2070**	**44.8109**	**62.5544**	**54.5837**	**52.6734**

HAYDEN

Continued from page 4

that in the Hayden-Winkelman Unified School District, including restrictions on the budgeting and property tax levying authority of school district governing boards for overrides, the transportation revenue control limit, the small school district adjustment, and other budget items that impact property tax rates.

Finally, the Committee adopted a recommendation that debt limits be reduced statutorily by one-half for counties, cities, community colleges and school districts in cases where at least 50% of the net assessed value in a jurisdiction is comprised of a single taxpayer.

For more information about Hayden's property tax crisis, see *ATRA Newsletters* for June/July 2005, August 2003, December 2002, October 2001, October 2000, October 1999.

9% GROWTH IN COUNTY PRIMARY PROPERTY TAX LEVIES IN 2005

County primary property tax levies increased $66.2 million (9%) in tax year (TY) 2005, bringing total county primary levies to $798.7 million.

The largest percentage increases in primary levies occurred in Apache County, with 24.5% growth ($276,559), Pinal County, with an increase of 14.3% ($6,760,958), followed by Yavapai County with 12% ($3,433,000) growth. The largest dollar increases in primary levies were adopted by Maricopa ($31,342,019), Pima ($17,794,589), and Pinal ($6,760,958). Four counties-Apache, Greenlee, Maricopa, and Navajo-are at their levy limits in TY 2005.

Only two of the 15 counties, La Paz and Yuma, adopted a primary rate lower than the TNT rate and therefore were not required to hold a truth in taxation (TNT) hearing.

TNT laws require state and local governments to adjust property tax rates based on changes in property valuations (excluding new construction) so that the only growth in the property tax levy is the result of new construction. If jurisdictions choose to exceed the TNT limit and increase taxes over the prior year on existing property, which is becoming more common among the counties, they are required to notice taxpayers and hold a public hearing regarding the tax increase.

Pinal County levies the highest primary property tax rate out of all the counties at $4.4532 per $100 of assessed value and is nearly eight cents above this year's TNT rate. Gila and Pima counties levy the second and third highest primary rates at $4.4100 and $4.0720, respectively. Gila County's primary rate is almost 12 cents above their TNT rate, and Pima County's primary rate is nearly 17 cents over the TNT rate.

An additional $27.5 million in primary property taxes was levied in TY 2005 as a result of 13 counties electing to exceed TNT levels. Maricopa and Pima make up approximately 85% of the $27.5 million, levying a collective $23.3 million over TNT levels.

Jennifer Schuldt

County	Primary Levy	TNT limit	Over/(Under) TNT Levy
Apache	$1,407,178	$1,154,971	$252,207
Cochise	$19,525,252	$19,039,055	$486,197
Coconino	$6,006,746	$5,785,342	$221,404
Gila	$17,098,264	$16,635,393	$462,871
Graham	$1,909,149	$1,901,086	$8,063
Greenlee	$1,252,020	$1,227,439	$24,581
La Paz	$3,211,807	$3,273,372	($61,565)
Maricopa	$371,224,118	$357,110,069	$14,114,049
Mohave	$24,002,974	$23,312,319	$690,655
Navajo	$4,334,090	$4,249,286	$84,804
Pima	$238,193,628	$229,038,681	$9,154,947
Pinal	$54,016,045	$53,099,918	$916,127
Santa Cruz	$8,743,144	$8,585,518	$157,626
Yavapai	$31,939,000	$30,071,299	$1,867,701
Yuma	$15,795,375	$16,637,534	($842,159)
TOTALS	**$798,658,790**	**$771,121,282**	**$27,537,508**

18 VOTERS APPOVE UNION SCHOOL DISTRICT TAX HIKE

It does pay to vote

The 2005 tax bills just sent to Union Elementary School District taxpayers in Maricopa County will show a new property tax levy for a maintenance and operations (M&O) override approved by voters in May.

For the great majority of taxpayers in the district, it will be the first time they learn of the new $210,360 levy. The May election to approve the seven-year, 10% M&0 override turned out only 30 voters, a mere 2% of eligible voters in the district. With an 18 to 12 vote, Union was given the authority to levy what will likely exceed $1 million in secondary property taxes over the life of the override.

Over the life of the override each of those 18 yes votes will be responsible for roughly $55,000 in property taxes – a rewarding trip to the ballot box if you're looking to raise taxes.

Union Elementary, a small but growing district in southwestern Maricopa County, has 1,451 registered voters. State law requires K-12 schools seeking overrides to mail publicity pamphlets to each household in the district.

While there are many possible reasons for the dismal voter turnout the most likely is that is that it was intentional. For years, a well-established strategy for the successful passage of school bonds and overrides has been to keep the public debate to a minimum in order to not wake up the citizenry.

In fact, political consultants have authored playbooks on how to secure successful passage of these tax questions where the primary message to proponents is to decrease voter participation stressing "this in NOT an exercise in democracy."

In theory, these elections are intended to spark important public debates regarding the publics' willingness to pay higher taxes for increased services or capital improvements.

What is most notable about this cynical "run silent, run deep approach" is how little confidence many of these jurisdictions have that the public will ultimately buy what they are being sold.

ATRA members, staff, represented in appointments to redistricting commission

Two members of the Arizona Tax Research Association (ATRA), and one staff member, have been appointed to the School District Redistricing Commission.

ATRA vice president Michael Hunter was appointed to the Commission by Senate President Ken Bennett.

Governor Janet Napolitano appointed Martin L. Shultz, vice president for government relations for the Pinnacle West Capital Corporation. Shultz, who has served on ATRA's board of directors since 1989, has long been a vocal advocate for unification and played a significant role in the creation of this Commission.

Dave Naugle, administrator for corporate public affairs for Southwest Gas, was appointed to the Commission by House Speaker Jim Weiers. An active member of ATRA for several years, Naugle also serves on the governing board of the Sonoita Elementary School District in Santa Cruz County.

Established by SB 1068 (Senator Linda Gray), the 13-member Commission is charged with designing school district unification plans that ultimately go to voters in affected districts. The final report is to be submitted to the Governor on or before December 31, 2007.