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ARIZONA TAX RESEARCH ASSOCIATION

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Governor, Legislature Fail To Protect Property Taxpayers

Soaring property valuations, followed by record increases in secondary property taxes, has resulted in considerable unrest among property taxpayers across the state. Last fall, school bond and override requests were rejected as property taxpayers tried to protect themselves from further tax increases. Citizens have filed and are circulating two property tax limitation initiatives that would dramatically limit state and local government's access to property taxes. The response to the problem at the state capitol this year? It is looking like it might be zero.

Governor Napolitano has led the way for policymakers at the capitol that not only are not interested in placing reasonable limitations on property tax levies but are also setting the stage for major property tax increases in the near future. Unbelievably, last month's veto of the state property tax rate bill (refer to last month's *Newsletter*), was followed by a veto this month of ATRA's Secondary Property Tax Reform bill (HB2585). The measure was sponsored by House Ways and Means Chairman Steve Yarbrough and his commentary on the Governor's veto message is reprinted in this *Newsletter*.

Following a 28% increase in statewide secondary property taxes over the last two years, ATRA recommended two bills targeted at reforming this area of

the property tax system. The first, HB2585, focused on reforms to general obligation (GO) bond election procedures as well as refinancing of GO bonds. Following successful negotiations with local government representatives and little opposition to the final measure, ATRA fully anticipated the Governor's signature. The second, HB2586 and SB1256, attempted to put levy limitations on countywide special districts and fire districts. HB2586 failed in the House (see the FEB/MAR *Newsletter*), while Senate leadership refused to put SB1256 up for a final vote in the Senate.

In explaining its opposition to both of the property tax limitation initiatives currently being circulated, ATRA argued that necessary reforms to the system could and should be implemented by state policymakers and not on a general election ballot. Following some initial success in the 2006 session, and the referral of Proposition 101, state policymakers now appear incapable of representing the interests of property taxpayers over local governments and union representatives.

Maria Travers Joins ATRA Staff



ATRA is proud to introduce Maria Travers as the association's new office manager. Maria, who joined the ATRA staff this spring, will be responsible for the financial operations of ATRA, membership recruitment and retention, conference planning, website maintenance and a variety of general office duties.

Maria has extensive experience in all areas of office management having served as a branch manager for an electronics distributor and home building inspector. A graduate of Xavier High School in Phoenix, Maria's hobbies include keeping track of her two children, Allen and Kylie.

Governor's Veto Message Short on Facts

Commentary: Rep. Steve Yarbrough, Ways and Means Committee Chairman

Recently, the Governor vetoed HB2585 that would have provided voters with additional information to make decisions regarding proposals for bond elections. These are bonds funded with local property tax dollars that require voter approval. Incredibly, the reason for the veto was that more information would be "unnecessary and undesirable."

Many of the projects that local jurisdictions ask voters to approve are worthy of consideration and going into

debt is a reasonable way to pay for these projects. But local governments should abide by the state constitutional debt limits approved by voters. Cities gained the approval of voters in 2006 to increase their debt limit from 6% to 20% of their taxable base for projects related to transportation and public safety. I think many voters would be surprised to learn that their city asks them to approve more than this amount. HB2585 would have required this information in the

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ATRA Tax Practitioner Bill Becomes Law

With the governor's signature, HB2692 maintains a taxpayer's right to seek guidance from the Department of Revenue (DOR) on an anonymous basis with the request of a taxpayer information ruling (TIR).

HB2692, which was recommended by the ATRA Tax Practitioner's Committee, was sponsored by Representative Steve Yarbrough, Chairman of the House Ways and Means Committee. The legislation was in response to the General Tax Ruling (GTR 07-1) issued by DOR in November 2007 that closed an avenue of tax advice previously available to taxpayers who chose to remain

anonymous. Through much negotiation, the ATRA Tax Practitioner's Committee and DOR were able to come to an agreement to address the concerns presented by both sides.

In its final form, HB2692 continues the practice of allowing taxpayers to request tax guidance anonymously with a TIR through a taxpayers' representative. However, if the taxpayer chooses to remain anonymous, the taxpayer is not provided the same benefits as a private taxpayer ruling (PTR), which includes the abatement of taxes, penalties, or interest if DOR revokes or modifies a ruling. On the other hand, if the taxpayer discloses its identity, the

taxpayer is extended the same protections as a PTR.

In order to address the issue that some taxpayer's are restricted from disclosing their identity for confidentiality reasons, the taxpayer may request that DOR not publish the ruling. DOR has the ultimate say in whether or not to publish and if DOR believes that the ruling should be published, the taxpayer may withdraw the ruling request at that time and DOR is not required to proceed with the ruling. If DOR agrees that the taxpayer can be identified even with redaction, DOR can decide that the ruling not be published and the taxpayer receives the same benefits as a PTR.

Jennifer Schuldt

Governor Vetoes National Rankings Study Committee

"It has long been said that there are three kinds of lies, 'lies, damn lies and statistics,'" the governor writes explaining her veto of SB1279. She continues stating that SB1279, sponsored by Senator Huppenthal, would have charged a study committee with evaluating the validity of Arizona's national education rankings and helping decision makers make better use of the data. She vetoed this "commendable task" claiming that the effort is "already being undertaken by numerous policy makers, advisory groups and regulatory agencies..."

The fact that there are currently multiple groups analyzing education statistics is certainly no matter of dispute. Education Week, the National Education Association (NEA), the U.S. Department of Education's National Center for Education Statistics (NCES), the Institute of Education Sciences, the American Federation of Teachers, American Legislative Exchange Council (ALEC), and many others all analyze and publish statistics regarding each state's education systems.

Not only are there multiple sources of

education statistics, but each source publishes multiple rankings. The annual NEA publication alone ranks the states in more than 100 different categories.

This plethora of analyses is, in fact, the reason for SB1279. With such a wide range of data available, statistics are often inappropriately isolated to support inaccurate conclusions. For example, Arizona's low per-pupil expenditure ranking is often sited to imply that the state's public school teachers are the worst paid teachers in the nation. Other's use the state's declining rank in the same statistic to claim that K-12 appropriations have kept up with neither inflation nor student enrollment.

A comprehensive analysis of the available data clearly demonstrates that each of the above assumptions is false. According to the NEA Arizona's teachers earn an average salary of \$44,672, which ranks Arizona two states *above* the median (see NEA's *Rankings & Estimates*, published in December 2007). The second claim falls apart upon analyzing ALEC's *2007 Report Card on Education* where Arizona ranks 4th in the nation for increases in

education funding (see the April 2008 *ATRA Newsletter* and the enclosed reprint of the Robert Robb May 7, 2008 *Arizona Republic* column "Myth of Arizona's miserable schools").

As the governor regularly references Arizona's low per-pupil ranking as the policy basis for increased K-12 spending, it is ironic that she would compare education statistics to lies and damn lies. Nonetheless, these inaccurate conclusions drawn from this ranking support her comparison. And while there is no dispute that there are many groups currently analyzing Arizona's rankings, the governor's veto fails to acknowledge that each of these groups has a different interest, a different agenda, different constituencies, and is ultimately motivated to arrive at different conclusions.

It is unfortunate that Arizona will not have a committee charged to independently review all of the scientifically reliable data and to provide an official evaluation. Such a committee would have provided a public forum in

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Myth of Arizona's miserable schools

May 7, 2008 *Arizona Republic* Column by Robert Robb

One of the more persistent public policy myths in Arizona is that the state has been shortchanging primary and secondary education. Not infrequently, the claim is made that per-pupil spending, adjusted for inflation, has actually been decreasing.

This is manifestly false.

In 1980, voters approved an expenditure limit on aggregate spending by Arizona school districts. Increases in real per-pupil spending in excess of 10 percent had to be approved by a two-thirds vote of the Legislature. In the last few years, the Legislature has had to vote to bust the expenditure limit, so real per-pupil spending has gone up by at least that amount.

A recent study by the American Legislative Exchange Council, an organization of conservative state legislators, provides the fullest picture I've seen about education spending in Arizona compared to other states.

According to the study (Report Card on American Education: A State-by-State Analysis), real per-pupil operational spending in Arizona has increased 24

percent since 1986.

Another myth that dies in the data is that Arizona teachers are poorly paid compared to other states. According to this study, Arizona ranks 26th in average teacher salary, and above the national average in terms of teacher pay compared to the average salary of other college-educated workers in the state.

You often heard that Arizona has the worst public schools in the country. The report compares academic achievement among the states according to federal assessment tests and college entrance exams (SAT and ACT). Arizona ranks 31st among the states in academic achievement.

A closer look exposes Arizona's academic challenge. Arizona ranks pretty much in the middle of the states with college-bound students, ranking 21st on the ACT and 27th on the SATs. However, we rank in the bottom third of the states on the performance of all students as measured by the federal tests.

Arizona is on the point of the achievement gap in this country between

Whites and Asians on one end and Latinos, Blacks and American Indians on the other.

Nearly 40 percent of Arizona students are Latino. A majority are Latino, Black or American Indian.

The only states with a higher percentage of students in educationally lagging demographic groups are California, Mississippi, New Mexico and Texas. Only Texas ranks higher than Arizona in overall academic achievement.

The 10 states ranked highest in academic achievement have an average of 81 percent of their students being White. Only one, New Jersey, has more than a third of its student population in educationally lagging demographic groups.

Achievement is more important than spending. Nevertheless, there is a fixation on spending and the fact that Arizona ranks near the bottom on it.

If Arizona has been increasing real per-pupil spending, how did we end up being a bottom-dweller?

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ATRA Joins Amicus Brief in CityNorth Case

The Goldwater Institute's Scharf-Norton Center for Constitutional Litigation, representing a group of small business owners in Phoenix, filed suit last summer against the City of Phoenix. The lawsuit argued that Phoenix violated the Arizona Constitution's gift clause by providing CityNorth, L.L.C. a \$97.4 million tax subsidy.

Last month, Judge Robert E. Miles ruled against the Goldwater Institute declaring that the benefits of the CityNorth agreement serve a public purpose. The Goldwater Institute appealed the ruling and awaits the appellate court proceedings.

In the meantime, however, Phoenix and CityNorth each filed motions in the lower court seeking an award of attorney's fees from the plaintiffs. The

court will hear oral arguments on this motion on June 9, 2008.

If the requested fees are granted, the court will significantly inhibit the ability of all citizens to seek judicial redress when governments disregard constitutional rights. As such, several public-interest organizations have joined an amicus brief authored by Tim Hogan of the Arizona Center for Law in the Public Interest.

In addition to ATRA, the amici include The Institute for Justice, Center for Arizona Policy, AZ Free Enterprise Club's Freedom Club Political Action Committee, and the American Civil Liberties Union of Arizona. The diverse political philosophies of these various organizations indicate that all sides of the political spectrum value the ability to

challenge government action, in good faith, without the risk of punitive attorneys' fees.

In the brief, the Amici argue that awarding attorneys' fees in this case would be inconsistent with the precedent established by the Arizona Supreme Court in *Wistuber v. Paradise Valley Unified School District*. In *Wistuber* the court ruled, "An award of attorneys' fees would be contrary to public policy because it would have a chilling effect on other parties who may wish to question the legitimacy of the actions of elected officials." The ruling continues, "Courts exist to hear such cases; we should encourage resolution of constitutional arguments in court rather than on the streets."

Justin Olson

YARBROUGH,

Continued from page 1

publicity pamphlet. The Governor considers this “undesirable” information.

Local governments justify this practice by limiting what they issue or pay in any one year so as not to exceed the limit. But here’s the catch – once a bond is approved – based on information in the pamphlet for a certain number of years at a proposed tax rate, the local government can ignore this information and accelerate the payments to pay off the debt sooner. The result is higher property taxes to cover the increased payments.

HB2585 would have prevented the practice by some local governments of taking a 20-year debt service schedule, for example, that was previously approved by voters and refinancing that debt down to a seven or eight-year debt schedule without receiving additional voter approval. HB2585 addressed that abuse by requiring local jurisdictions to hold an election prior to refinancing voter approved bonds if the weighted average maturity of the refunding bonds is less than 75% of the weighted average maturity of the bonds being refunded. The Governor specifically objected to this provision as an unnecessary restriction.

The Governor also stated in her veto message that “Voters should make informed decisions based on information

that is balanced, transparent and as neutral as possible.” I wholeheartedly agree and that is exactly the purpose of HB2585. So it is ironic that she uses this reasoning to veto additional information to the voters regarding the amount of debt local governments actually are levying.

More information to voters should be welcomed by all levels of government. I will continue to advocate for more accurate and balanced information to be presented to the voters regarding their property taxes because it is not only desirable but also necessary.

ROBB,

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That's a very interesting and revealing story. In 1986, Arizona ranked 34th among the states in per-pupil operating expenditures. Despite increasing real expenditures 24 percent, Arizona ranked 49th in 2006, according to the study.

Obviously, other states increased real per-pupil spending even more, by an average of 54 percent.

So, what did other states get for their greater increase in spending? According to the report, not much. There was very little correlation found in the report between academic achievement and higher spending, higher teacher salaries and lower student-teacher ratios.

The main trend that Arizona missed out on was a lower student-teacher ratio. In

Arizona, it increased slightly while it dropped 15 percent in the rest of the country.

The Arizona Tax Research Association did a calculation based upon the ALEC data. It found that Arizona actually spends right at the national median in classroom expenditures. We just have more students in the classrooms.

The question is whether that is academically significant. According to this report, it hasn't been.

This is not to say that Arizona doesn't have significant educational challenges. Overcoming the achievement gap is more important in Arizona than elsewhere.

It will be easier to concentrate on the true educational challenges, however, if we lay to rest the myth of the penny-pinching state Legislature as a scapegoat.

STUDY COMMITTEE,

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which each stakeholder could have made their best case for their interpretation of the data or for their method of evaluation. The committee would have likely uncovered many inaccuracies existing in the Arizona data used in the current rankings. And ultimately, the committee would have provided a valuable public service: eliminating any misconceptions resulting from isolated education statistics.

Justin Olson