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ARIZONA TAX RESEARCH ASSOCIATION

ATRA OPPOSES HB2498

Coconino Community College Permanent Primary Property Tax Override

HB2498 provides the Coconino Community College District the authority to seek a permanent override of their constitutional primary property tax levy. In addition, for the first time ever, that override would be levied as a primary property tax and not a secondary property tax. Both of these requests on the part of the Coconino District are extraordinary and will create both structural problems in the property tax system as well as a major precedent that will prompt other local governments to certainly seek similar treatment.

Some background of Arizona's property tax system is important to understand ATRA's concerns. Arizona's property tax system is made up of primary and secondary property taxes. Primary property taxes, which are levied for the maintenance and operations of local government budgets, are subject to the Constitutional levy limits that were established in 1980 of 2% plus growth. Under the Constitution, the primary property taxes of homeowner's are capped at 1% and any taxes levied over the cap are funded by the state general fund in the form of state aid.

Secondary property taxes, on the other hand, are levied to fund voter approved bonds, overrides, and special districts. It is sound tax policy that a voter approved property tax override be levied on the secondary property tax so as to not provide a homeowner with the 1% cap protection that is afforded to them on primary taxes that they have limited control over.

It is also important to recognize that Article 9 section 18 of the Arizona Constitution specifically states that "taxes levied pursuant to an election to exceed a budget or tax limitation" be excluded from the 1% cap. The only way to accomplish that is for the override to be a secondary property tax.

There are many Arizona local governments that seek voter approval for a property tax override. All of those overrides are temporary and require the jurisdiction to seek additional voter approval to continue the override. It is safe to say that most of those jurisdictions, given the choice, would prefer for their override to be permanent and not require them to go through the unpleasantness and cost of an election to raise property taxes. The proponents argue that the reason for this extraordinary request is that they are unique and different than the hundreds of other local governments in Arizona. Actually, what is unique about the Coconino District, unlike all of the other college districts, is that they established their primary levy limit knowing full well that the constitutional limit would apply. The Coconino Community College District was established in 1991, well after the voters approved the constitutional levy limits in 1980. All of the other community college districts existed prior to the implementation of the levy limits and the primary property taxes that they levied at that time became subject to the levy limits, without any adjustment.

In November 2006, the voters of Coconino County failed to approve the community college's request for a seven-year secondary property tax override. ATRA recognizes and appreciates their desire to only approach the voters one more time, and if successful, not have to do so again. However, they are not unique in preferring to only seek voter approval once and legislators should be prepared for many other jurisdictions seeking similar treatment.