



MEMORANDUM

Date: April 25, 2016

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator 

Re: **Additional State Aid to Education Transferred to Pima County**

As the Board of Supervisors is aware, in the budget adoption process last year, the State Legislature transferred additional liability of State Aid to Education to the counties and other taxing districts. This legislation, essentially adopted in the middle of the night, transferred a minimum of over \$8 million of additional property tax liability to Pima County; with a determination of "proportionality," which would assign the balance of any liability to the Property Tax Oversight Commission (PTOC). The PTOC met and developed newly crafted rules that transfer this entire burden to Pima County.

As you know, on April 22, we appealed the decision of the PTOC as allowed by their rules. In addition, we have oral arguments for a summary judgement in our lawsuit against the State regarding this legislation, which are scheduled in Maricopa Superior Court on May 12, 2016.

The attached document describes the legislation and its consequences, as well as provides data showing the number of property taxpayers who will pay increased property taxes in order to transfer the exceedance, or additional property tax liability, previously paid by the State to school districts.

The total County liability is \$15.8 million, with \$15.7 million (almost the entire amount) being paid to the Tucson Unified School District (TUSD). Of the 430,529 tax parcels in Pima County, 77 percent will pay the additional tax, which means the County is now levying taxes on behalf of the State and transferring them to the TUSD.

Also attached is data regarding the percentage of property tax parcels by Supervisorial District that will pay the additional State Aid to Education. The highest number is in District 1, where 93 percent of taxpayers will pay the additional State Aid to Education.

I have also included the same information for the State Legislative Districts in Pima County where the District Representative voted for the property tax transfer to Pima County from the State.

CHH/lab

Attachments

c: Thomas Weaver, Chief Civil Deputy County Attorney
Regina Nassen, Deputy County Attorney
Joseph Kanefield, Ballard Spahr, LLP
Michael Racy, Racy Associates, Incorporated

Pima County is Challenging a New Requirement to Pay "Additional State Aid to Education" Previously Paid by State for 35 Years

In 1980, following reaction to California's voter-approved limits on property taxes, the Arizona State Legislature referred a constitutional amendment to the ballot to provide property tax relief to homeowners by capping owner-occupied residential primary property taxes at one percent of the taxable value of the property. This one-percent property tax cap, listed on the ballot as Proposition 106, was approved by voters, and it is now part of the Arizona Constitution.

Primary property taxes are levied annually by counties, school districts, community college districts, the State and most cities and towns. Many homes are within several primary-property-tax-levying jurisdictions. Their annual property tax statements show the amounts levied on their property by each jurisdiction for that tax year. The one-percent cap means the total primary property rate of all those overlapping jurisdictions cannot exceed a certain amount. For an owner-occupied home with a taxable value of \$100,000, the total primary property taxes cannot exceed \$1,000 per year.

Since the one-percent cap has been in place, there have been certain geographic areas where the sum of the primary property taxes levied by all of the jurisdictions on owner-occupied homes exceeds the one-percent cap. These areas of exceedance have typically occurred within school districts that levy additional primary property taxes for the purposes of desegregation and within small, low-wealth school districts.

The Arizona Legislature adopted certain statutes after Proposition 106 passed in 1980 that implement the one-percent cap. These statutes provide that, when the one-percent cap is exceeded, the affected homeowner receives a credit on their tax bill for the amount of the overage against the taxes they owe to their school district. That means the school district will not be able to collect its entire property tax levy. To address this shortfall in school district revenues, the State has, for the last 35 years, paid the school district the difference by providing it with "Additional State Aid to Education" ("1% ASAE").

The amount by which primary property taxes have exceeded the one-percent cap has varied widely from year to year, and therefore the amount of 1%ASAE paid by the State to school districts has also varied. The amount for due for tax years 2014 and 2015 is nearly what was due in 2001 before the Great Recession decreased property values. In addition to variable property values, other events more recently have impacted the amount of exceedance and the 1%ASAE due to schools. In 2012, the State reduced another form of school funding, which forced some school districts to increase their property tax levies to make up for the reduced revenue. This was followed, in tax years 2013 and 2014, with tax rate increases by many local taxing

jurisdictions across the State that had suppressed tax rate increases during the worst of the recession when property values were decreasing. Proposition 117, approved by voters in 2012, also exacerbated this problem by suppressing the growth in the taxable value of properties to no more than five percent per year.

In 2015, the State Legislature approved Senate Bill 1476, which ended the 35-year practice of the State paying the 1% ASAE to school districts. The bill capped the State's portion of 1% ASAE at \$1 million per County and required the State's Property Tax Oversight Commission (Commission) to decide how to allocate the rest of the 1% ASAE liability to the local primary property taxing jurisdictions that overlap with the affected districts. The bill also required the Commission to not allocate any liability to a taxing jurisdiction with a tax rate equal to or less than its "peer jurisdictions."

In Pima County, it is largely those owner-occupied homes within TUSD that have tax bills exceeding the one-percent cap. This is primarily due to the above-average primary property tax rates of TUSD and Pima County. TUSD's above-average tax rate is largely due to court-ordered desegregation costs. Pima County's above-average tax rate is due to several factors, including the fact that Pima County is the only county in Arizona that does not levy a sales tax.

For tax year 2015, over 100,000 owner-occupied properties in Pima County, most of which are located within TUSD, received a credit to bring their total primary property tax bill down to the cap. As a result, the primary property taxes levied by TUSD and several other school districts were reduced. The 1% ASAE due to these school districts, totals \$16,804,503, of which \$15,716,829 is due to TUSD.

On March 14, 2016, the Commission met and adopted its staff's recommendations on how to allocate the 1% ASAE liability among local jurisdictions. The Commission staff performed the allocation in a manner that holds school districts harmless. Therefore, TUSD's levy was not reduced at all, even though TUSD's desegregation costs are a large part of why the total primary property tax levies exceeded the one-percent cap. Commission staff also decided what jurisdictions to treat as "peers" and how to compare "peer" tax rates. Based on its calculations, none of the other taxing jurisdictions that overlap with TUSD had tax rates exceeding their peer jurisdictions, so none of them are required to pay. The Commission decided Pima County should pay all \$15.8 million after the \$1 million the State will pay, with Pima County paying \$15.7 million directly to TUSD before June 30, 2016. This is the amount the State previously would have paid to school districts; but because of last year's legislation and the Commission's recent action, it is now a cost that has been shifted to Pima County.

Pima County was not the only local government impacted by this legislation and the Commission's decisions. In Pinal County, the Commission decided that several cities

and towns and the Central Arizona Community College District should pay the affected school districts. In Maricopa County, none of the local taxing jurisdictions had tax rates exceeding their peers; therefore, the Commission decided the several affected school districts will remain uncompensated for the loss in property tax revenues; a situation that shows the flaws in last year's legislation. In upcoming years, the scale of this problem is projected to expand to other counties as well.

Pima County has been challenging this legislation in court since last summer. With the Commission's recent decision and deadline for payment by the end of June, Pima County has requested an expedited decision from the trial court. Pima County is asking the court to find the legislation unconstitutional for five reasons; one of which is essentially that the new legislation amounts to taxation without representation. The money to make the payment to TUSD must be raised by the County through its own property tax levy. This means that property taxpayers *outside* of TUSD will be paying a portion of TUSD's property tax levy. Yet, those taxpayers do not elect the TUSD governing board and, thus, have no ability to hold the TUSD governing board accountable for its budget decisions.

The portion of the County's tax levy used to make the payment to TUSD will not be paid by homeowners within TUSD because those homeowners' primary property taxes are already at the maximum one-percent. It will be paid by property owners outside TUSD, including residential property owners, and by businesses and renters within TUSD. In all, 77 percent of the parcels in Pima County, the majority of which are located outside TUSD boundaries, will pay this additional property tax to TUSD.

# Parcels in Pima County	# Parcels Inside TUSD	# Parcels Outside TUSD	# Class 3 Parcels Inside TUSD	# Non-Class 3 Parcels Inside TUSD	# Parcels to Pay 1%ASAE Tax	% Parcels to Pay 1% ASAE Tax
430,529	178,349	252,180	100,708	77,641	329,821	77%

Note: the number of parcels paying the 1% ASAE tax is defined as the number of parcels outside TUSD, plus the number of Non-class-3 parcels inside TUSD. Class 3 parcels are owner-occupied residential properties.

Pima County is committed to working with the State to identify tools that would enable local primary property taxing jurisdictions to reduce primary property taxes; thereby solving the one-percent cap exceedance problem rather than simply shifting the burden of who pays.

Who Pays the Additional State Aid for Education Tax to TUSD per PTOC March 14, 2016 Action?

Answer: All property owners outside of TUSD, plus some property owners inside of TUSD (commercial, industrial, vacant, apartments, second homes, etc.), which equates to 77% of properties in Pima Co. 60 % of properties are outside of TUSD.

Who Will Not Pay the Additional State Aid for Education Tax to TUSD per PTOC March 14, 2016 Action?

Answer: Homeowners inside TUSD (Owner-occupied residential)

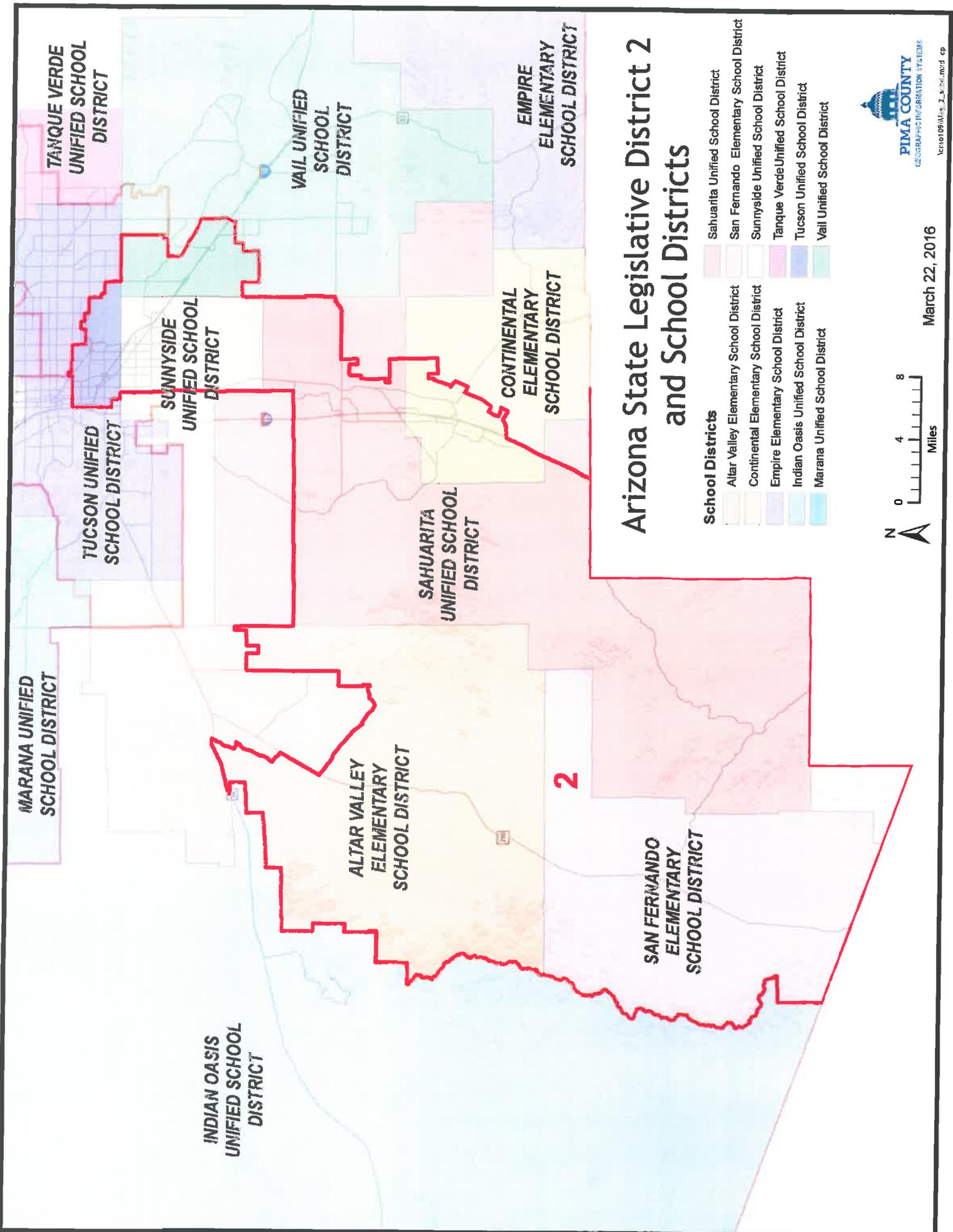
of Parcels to Pay ASAE Tax is defined as the # of parcels outside of TUSD plus the # of non-class 3 parcels inside of TUSD
Class 3 parcels defined as owner-occupied residential

BOS District	# Parcels	# Parcels Inside TUSD	# Parcels Outside TUSD	# Class 3 Parcels Inside TUSD	# Non-Class 3 Parcels Inside TUSD	# Parcels to Pay ASAE Tax	% Parcels to Pay ASAE Tax	% Parcels outside of TUSD to Pay ASAE Tax
1	100,091	10,301	89,790	6,636	3,665	93,455	93%	90%
2	65,870	41,075	24,795	21,890	19,185	43,980	67%	38%
3	93,583	30,079	63,504	15,499	14,580	78,084	83%	68%
4	107,191	39,078	68,113	27,227	11,851	79,964	75%	64%
5	63,794	57,816	5,978	29,456	28,360	34,338	54%	9%
All BOS Districts	430,529	178,349	252,180	100,708	77,641	329,821	77%	59%

Legislative Districts	# Parcels	# Parcels Inside TUSD	# Parcels Outside TUSD	# Class 3 Parcels Inside TUSD	# Non-Class 3 Parcels Inside TUSD	# Parcels to Pay ASAE Tax	% Parcels to Pay ASAE Tax	% Parcels outside of TUSD to Pay ASAE Tax
2	73,238	13,695	59,543	5,478	8,217	67,760	93%	81%
11	71,248	1,084	70,164	738	346	70,510	99%	98%

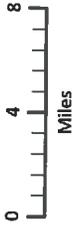
Note: # of Parcels to Pay ASAE Tax is defined as the # of parcels outside of TUSD plus the # of non-class 3 parcels inside of TUSD

Note: Class 3 parcels defined as owner-occupied residential



Arizona State Legislative District 11 Within Pima County and School Districts

- School Districts**
- Alter Valley Elementary School District
 - Amphitheater Unified School District
 - Catalina Foothills Unified School District
 - Flowing Wells Unified School District
 - Indian Oasis Unified School District
 - Marana Unified School District
 - Redington Elementary School District
 - Sahuarita Unified School District
 - Sunnyside Unified School District
 - Tanque Verde Unified School District
 - Tucson Unified School District
 - Vail Unified School District



March 22, 2016



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