

REFERENCE TITLE: property tax levy rollback

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SCR 1024

Introduced by
Senator Gould; Representatives Groe, Pearce; Senators Gray C, Harper,
Verschoor

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE IX, SECTION 19, CONSTITUTION OF ARIZONA; RELATING TO LEVY ROLLBACK; LIMITATIONS ON CHANGES IN PROPERTY TAX LEVIES; EXCEPTIONS; VOTER APPROVAL; PRIVATE RIGHT OF ACTION; DEFINITIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the Senate of the State of Arizona, the House of
2 Representatives concurring:

3 1. Short title

4 This measure shall be known as the "Arizona Tax Revolt - Property Tax
5 Levy Rollback".

6 2. Purpose

7 The Arizona Tax Revolt - Property Tax Levy Rollback constitutional
8 amendment will reduce, limit and control the property tax burden on Arizona
9 taxpayers. Among other things, this constitutional amendment rolls back
10 property tax levies, and it protects taxpayers from future property tax
11 increases caused by levy increases which, without voter approval, cannot
12 exceed two percent plus the tax attributable to and paid for by new growth.

13 3. Article IX, section 19, Constitution of Arizona, is proposed to be
14 amended as follows if approved by the voters and on proclamation of the
15 Governor:

16 19. LEVY ROLLBACK; limitation on CHANGES annual
17 increases in PROPERTY local ad valorem tax
18 levies; exceptions; VOTER APPROVAL; PRIVATE
19 RIGHT OF ACTION; DEFINITIONS

20 Section 19. (1) The maximum amount of ad valorem taxes
21 levied by any TAXING ENTITY ~~county, city, town or community~~
22 ~~college district~~ shall not exceed an amount two per cent greater
23 than the amount levied in the preceding year. THIS LEVY
24 LIMITATION SHALL BE INCREASED EACH YEAR TO THE MAXIMUM
25 PERMISSIBLE LIMIT, WHETHER OR NOT THE TAXING ENTITY ACTUALLY
26 LEVIES AD VALOREM TAXES TO SUCH AMOUNTS, EXCEPT THAT THE TAXING
27 ENTITY'S LEVY IN THE YEAR 2009 SHALL BE LIMITED PURSUANT TO
28 EITHER PARAGRAPH (a) OR (b) OF THIS SUBSECTION, IF APPLICABLE.
29 IF NEITHER PARAGRAPH (a) NOR (b) OF THIS SUBSECTION APPLY, THE
30 TAXING ENTITY'S LEVY IN THE YEAR 2009 SHALL NOT EXCEED THE
31 ACTUAL TAX LEVY OF THE TAXING ENTITY IN 2005 OR THE TAXING
32 ENTITY'S FIRST LEVY IF SUCH OCCURRED AFTER 2005. THE 2009 LEVY
33 LIMITATION PRESCRIBED BY THIS SUBSECTION SHALL BE FURTHER
34 ADJUSTED, UNLESS ALREADY INCLUDED IN SUCH AMOUNT, PURSUANT TO
35 SUBSECTION (5), AND BY THE AMOUNT PRESCRIBED BY SUBSECTION (4),
36 AS APPLICABLE.

37 (a) THE TAXING ENTITY'S 2009 LEVY SHALL NOT EXCEED THE
38 AVERAGE OF THE ACTUAL TAX LEVIES OF THE TAXING ENTITY IN 2005,
39 2006, 2007 AND 2008, EXCLUDING ANY YEAR OR YEARS IN WHICH THERE
40 WAS NO LEVY. THIS PARAGRAPH SHALL NOT APPLY IF PARAGRAPH (b) OF
41 THIS SUBSECTION APPLIES, OR IF THE TAXING ENTITY WITHOUT THE
42 APPROVAL OF AT LEAST A TWO-THIRDS VOTE OF THE TAXING ENTITY'S
43 QUALIFIED ELECTORS VOTING ON THE ISSUE IN A NOVEMBER ELECTION IN
44 THE MANNER PRESCRIBED BY LAW, ENGAGED IN EITHER ITEM (i) OF THIS

1 PARAGRAPH IN 2008 OR BEGINNING ON AUGUST 15, 2007, EITHER ITEMS
2 (ii) OR (iii), OF THIS PARAGRAPH.

3 (i) LEVIED AD VALOREM TAXES THAT INCREASED BY MORE THAN
4 TWO PER CENT, PLUS ANY LEVY ADJUSTMENT COMPUTED IN 2008 PURSUANT
5 TO THE PROVISIONS OF SUBSECTION (5).

6 (ii) LEVIED, OR ENACTED A NON-AD VALOREM TAX OR
7 ASSESSMENT ON REAL PROPERTY GREATER THAN SUCH AMOUNT WHICH MAY
8 HAVE BEEN LEVIED, OR ENACTED IN THE PRIOR YEAR.

9 (iii) RECEIVED APPROVAL OF ANY NEW INDEBTEDNESS THAT IS
10 OR WILL BE SECURED BY REAL PROPERTY TAXES.

11 (b) IF, BEGINNING ON AUGUST 15, 2007:

12 (i) TWO OR MORE TAXING ENTITIES MERGE OR OTHERWISE
13 COMBINE INTO A SINGLE TAXING ENTITY, THE LEVY OF THE SUCCESSOR
14 TAXING ENTITY IN 2009 SHALL NOT EXCEED AN AMOUNT EQUAL TO THE
15 SUM OF THE LEVIES OF THE PREDECESSOR TAXING ENTITIES IN 2005, OR
16 THE PREDECESSOR TAXING ENTITY'S FIRST LEVY IF LEVIED SUBSEQUENT
17 TO 2005.

18 (ii) A TAXING ENTITY DIVIDES, SPLITS OR OTHERWISE CEDES
19 ITS TAXING AUTHORITY TO ONE OR MORE TAXING ENTITIES, THE SUM OF
20 THE 2009 LEVIES OF EACH SUCCESSOR TAXING ENTITY SHALL NOT EXCEED
21 THE AMOUNT OF THE PREDECESSOR TAXING ENTITY'S LEVY IN 2005 OR
22 ITS FIRST LEVY IF LEVIED SUBSEQUENT TO 2005, AND SUCH AMOUNT
23 SHALL BE APPORTIONED BETWEEN THE SUCCESSOR TAXING ENTITIES IN
24 THE MANNER PRESCRIBED BY LAW.

25 IF BOTH ITEMS (i) AND (ii) APPLY, THE SUM OF THE 2009 LEVY
26 OF EACH SUCCESSOR TAXING ENTITY SHALL NOT EXCEED THE SUM OF EACH
27 ORIGINAL PREDECESSOR TAXING ENTITY'S 2005 LEVY OR, AS
28 APPLICABLE, A PREDECESSOR TAXING ENTITIES FIRST LEVY IF LEVIED
29 SUBSEQUENT TO 2005, AND THE 2009 LEVY OF EACH SUCCESSOR TAXING
30 ENTITY SHALL BE COMPUTED IN THE MANNER PRESCRIBED BY LAW
31 NOTWITHSTANDING THE 2009 LEVY LIMITATION PRESCRIBED BY THE
32 PROVISIONS OF ITEMS (i) AND (ii) OF THIS PARAGRAPH.

33 (2) SUBJECT TO THE PROVISIONS OF SUBSECTION (4), THE
34 FOLLOWING ARE THE ONLY ITEMS THAT the limitation prescribed by
35 subsection (1) does not apply to:

36 (a) Ad valorem taxes or special assessments levied to pay
37 the principal of and the interest and redemption charges on
38 bonded indebtedness or other lawful long-term obligations issued
39 or incurred for a specific purpose.

40 (b) Ad valorem taxes or assessments levied by or for
41 property improvement assessment districts, improvement districts
42 and other special purpose districts other than counties, cities,
43 towns and community college districts.

44 (c) Ad valorem taxes levied by counties for support of
45 school districts.

1 (3) This section applies to all tax years beginning after
2 December 31, ~~1981~~ 2008, EXCEPT AS OTHERWISE PROVIDED IN THIS
3 SECTION.

4 ~~(4) The limitation prescribed by subsection (1) shall be~~
5 ~~increased each year to the maximum permissible limit, whether or~~
6 ~~not the political subdivision actually levies ad valorem taxes~~
7 ~~to such amounts, except that beginning in 2007 the limitation~~
8 ~~prescribed by subsection (1) shall be computed from the actual~~
9 ~~tax levy of the county, city, town or community college district~~
10 ~~in 2005.~~

11 ~~(45-) BEGINNING ON AND SUBSEQUENT TO NOVEMBER 5, 2008,~~
12 ~~THE FOLLOWING VOTER APPROVAL REQUIREMENTS SHALL APPLY. The~~
13 ~~voters, in the manner prescribed by law, may elect to allow ad~~
14 ~~valorem taxation in excess of the limitation prescribed by this~~
15 ~~section.~~

16 (a) A TWO-THIRDS VOTE OF THE QUALIFIED ELECTORS OF A
17 TAXING ENTITY VOTING ON THE ISSUE IN A NOVEMBER ELECTION, IN THE
18 MANNER PRESCRIBED BY LAW, IS REQUIRED TO APPROVE:

19 (i) ANY TAX LEVIED OR ENACTED BASED ON REAL PROPERTY IN
20 ADDITION TO OR IN EXCESS OF ANY SUCH AMOUNT IN THE PRIOR YEAR,
21 EXCEPT FOR ANY AMOUNT AUTHORIZED BY THE PROVISIONS OF
22 SUBSECTIONS (1), (5) AND (6).

23 (ii) THE REAL PROPERTY TAX LEVY OF ANY TAXING ENTITY THAT
24 DID NOT ACTUALLY LEVY SUCH A TAX IN THE PRECEDING YEAR.

25 (iii) EACH ITEM SET FORTH IN SUBSECTION (2), UNLESS ANY
26 SUCH ITEM WAS APPROVED PRIOR TO THE EFFECTIVE DATE OF THIS
27 SUBSECTION. ONCE APPROVED THE LEVYING OF SUCH AMOUNTS DO NOT
28 REQUIRE SUBSEQUENT VOTER APPROVAL.

29 (b) TEN PER CENT OF THE QUALIFIED ELECTORS OF A TAXING
30 ENTITY, IN A MANNER PRESCRIBED BY LAW, MAY PETITION THE
31 GOVERNING BODY OF THE TAXING ENTITY TO REDUCE THE TAXING
32 ENTITY'S LEVY LIMITATION BY A SPECIFIED AMOUNT NOT TO EXCEED
33 TWENTY PER CENT OF ITS PREVIOUS LEVY. THE PETITIONERS SHALL
34 HAVE AT LEAST EIGHTEEN MONTHS BUT NOT MORE THAN TWENTY-FOUR
35 MONTHS TO COLLECT AND FILE THE PETITION SIGNATURES. IF, WITHIN
36 TWO MONTHS AFTER SUBMITTING THE REQUIRED NUMBER OF PETITION
37 SIGNATURES, THE GOVERNING BODY FAILS TO REDUCE THE LEVY
38 LIMITATION BY THE PETITIONED AMOUNT, THE GOVERNING BODY SHALL
39 CAUSE THE PETITION TO BE SUBMITTED TO THE VOTERS AT THE NEXT
40 NOVEMBER ELECTION OCCURRING AT LEAST FOUR MONTHS AFTER THE
41 PETITION SIGNATURES WERE SUBMITTED. THE TAXING ENTITY'S LEVY
42 LIMITATION SHALL BE REDUCED BY THE AMOUNT SPECIFIED IN THE
43 PETITION UPON THE AFFIRMATIVE VOTE OF A MAJORITY OF VOTERS
44 VOTING ON THE ISSUE IN THE MANNER PRESCRIBED BY THIS SUBSECTION.

1 ANY REDUCTION IN THE TAXING ENTITY'S LEVY LIMITATION PURSUANT TO
2 THIS SECTION SHALL:

3 (i) NOT EXCEED TWENTY PER CENT PER YEAR WHEN TWO OR MORE
4 SUCH PETITIONS ARE APPROVED BY THE VOTERS IN A SINGLE YEAR.

5 (ii) BE APPLIED TO THE TAXING ENTITY'S LEVY FOR THE YEAR
6 FOLLOWING THE YEAR IN WHICH THE REDUCTION WAS APPROVED.

7 (c) ELECTIONS HELD PURSUANT TO THIS SECTION SHALL BE
8 ADMINISTERED BY THE COUNTY IN WHICH THE GEOGRAPHIC AREA OF THE
9 TAXING ENTITY IS LOCATED AND SHALL BE HELD AT A NOVEMBER
10 ELECTION. IF THE TAXING ENTITY'S GEOGRAPHIC AREA IS LOCATED
11 WITHIN TWO OR MORE COUNTIES, ELECTIONS SHALL BE ADMINISTERED
12 SEPARATELY IN EACH COUNTY ON THE SAME DATE AND:

13 (i) A LEVY DECREASE SHALL BE APPROVED BY A MAJORITY VOTE
14 OF THE QUALIFIED ELECTORS OF THE TAXING ENTITY VOTING ON THE
15 ISSUE.

16 (ii) A LEVY INCREASE SHALL BE APPROVED BY A TWO-THIRDS
17 VOTE OF THE QUALIFIED ELECTORS OF THE TAXING ENTITY VOTING ON
18 THE ISSUE, PROVIDED THAT THE QUALIFIED ELECTORS OF EACH OF THE
19 COUNTIES COMPRISING THE TAXING ENTITY SEPARATELY APPROVE OF THE
20 INCREASE, EACH BY A TWO-THIRDS VOTE.

21 (d) ALL COSTS OF ELECTIONS HELD PURSUANT TO THIS SECTION
22 SHALL BE CHARGED AGAINST THE FUNDS OF THE TAXING ENTITY, EXCEPT
23 THAT THE COSTS OF AN ELECTION FOR A TAXING ENTITY'S INITIAL LEVY
24 SHALL BE CHARGED AGAINST THE FUNDS OF THE RESPECTIVE COUNTY OR
25 COUNTIES ADMINISTERING EACH SEPARATE ELECTION IN WHICH THE
26 TAXING ENTITY IS GEOGRAPHICALLY LOCATED. THE COSTS OF THE
27 ELECTION SHALL BE CHARGED AGAINST THE STATE IF THE TAXING ENTITY
28 IS THE STATE OR THE TAXING ENTITY'S GEOGRAPHIC AREA ENCOMPASSES
29 THE ENTIRE STATE.

30 (e) IF THERE ARE NO QUALIFIED ELECTORS RESIDING WITHIN
31 THE GEOGRAPHIC BOUNDARY OF A TAXING ENTITY, THE WRITTEN CONSENT
32 OF THE FIRST PERSON OR ENTITY LISTED ON THE TITLE, OR OTHER
33 ENTITY OR AUTHORIZED AGENT REPRESENTING ALL OWNERS OF A GIVEN
34 PARCEL, SUCH THAT THE OWNERS OF AT LEAST TWO-THIRDS OF THE
35 TAXING ENTITY'S GEOGRAPHIC AREA ARE IN FAVOR OF APPROVAL IN LIEU
36 OF AN ELECTION PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION.

37 (56-) The limitation prescribed by subsection (1) ~~of this~~
38 ~~section~~ shall be increased by the amount of ad valorem taxes
39 levied against property not subject to taxation in the prior
40 year and shall be decreased by the amount of ad valorem taxes
41 levied against property subject to taxation in the prior year
42 and not subject to taxation in the current year. Such amounts of
43 ad valorem taxes shall be computed using the rate applied to
44 property not subject to this subsection.

1 (6) BEGINNING IN 2010, THE LEVY LIMITATION PRESCRIBED BY
2 SUBSECTION (1):

3 (a) AS ADJUSTED BY THE PROVISIONS OF SUBSECTIONS (4), (5)
4 AND (8), IF APPLICABLE, AND USED IN COMPUTING SUBSEQUENT LEVIES,
5 MAY BE DECREASED WITHOUT LIMIT BY A MAJORITY VOTE OF THE
6 MEMBERSHIP OF THE TAXING ENTITY'S GOVERNING BODY.

7 (b) SHALL BE ADJUSTED ANNUALLY BY A PERCENTAGE EQUAL IN
8 BOTH SIGN AND MAGNITUDE TO ANY CHANGE IN THE PHOENIX-MESA
9 CONSUMER PRICE INDEX (CPI-U) COMPUTED ON ALL ITEMS AS PUBLISHED
10 BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR
11 STATISTICS, OR ITS SUCCESSOR AGENCY, WHICH MOST ACCURATELY
12 REFLECTS INFLATION AND DEFLATION IN THE PHOENIX AREA COMPUTED AS
13 THE MOST RECENT ANNUAL PERCENTAGE CHANGE USING EITHER THE ANNUAL
14 TO ANNUAL OR FIRST HALF TO FIRST HALF DATA, EXCEPT THAT ANY SUCH
15 INCREASE SHALL NOT EXCEED THE TWO PER CENT LIMITATION PRESCRIBED
16 BY SUBSECTION (1). IF SUCH AN INDEX IS NO LONGER AVAILABLE, THE
17 LEGISLATURE SHALL SELECT A SIMILAR INDEX APPLICABLE TO ARIZONA.

18 (7) The legislature shall provide by law for the
19 implementation of this section IN A TIMELY MANNER.

20 (8) PUNITIVE MEASURES FOR NONCOMPLIANCE; CIVIL ACTION.

21 (a) ANY TAXING ENTITY THAT FAILS TO COMPLY WITH THE
22 PROVISIONS OF THIS SECTION SHALL:

23 (i) AT THE PARCEL OWNER'S OPTION AND IN THE MANNER
24 PROVIDED FOR BY LAW, REFUND OR CREDIT THE OVERPAYMENT TO THE
25 PARCEL OWNER, AT SIXTEEN PER CENT SIMPLE INTEREST FROM THE DATE
26 IN EACH YEAR THAT THE FIRST INSTALLMENT IN ERROR WAS DUE.

27 (ii) HAVE OR CAUSE THE LEVY LIMITATION PRESCRIBED BY THIS
28 SECTION REDUCED TO THE MAXIMUM PERMISSIBLE AMOUNT.

29 (b) ANY PERSON SHALL HAVE STANDING TO BRING AN ACTION IN
30 THE SUPERIOR COURT TO ENFORCE THE PROVISIONS OF THIS SECTION.
31 THE COURT MAY AWARD COSTS AND REASONABLE ATTORNEYS' FEES TO A
32 PREVAILING PLAINTIFF. AT THE OPTION OF THE PLAINTIFF, THE
33 ACTION MAY BE BROUGHT IN THE SUPERIOR COURT OF THE COUNTY THAT
34 GEOGRAPHICALLY CONTAINS ANY PART OF THE CHALLENGED TAXING ENTITY
35 OR IN THE SUPERIOR COURT OF MARICOPA COUNTY.

36 (9) DEFINITIONS. FOR PURPOSES OF THIS SECTION:

37 (a) "NOVEMBER ELECTION" MEANS AN ELECTION HELD ON THE
38 FIRST TUESDAY AFTER THE FIRST MONDAY IN NOVEMBER.

39 (b) "ORIGINAL PREDECESSOR TAXING ENTITY" MEANS A TAXING
40 ENTITY THAT EXISTED AS OF AUGUST 15, 2007, OR WAS INITIALLY
41 FORMED THEREAFTER AND NOT THE RESULT OF A CHANGE OF STATUS AS
42 DEFINED BY SUBSECTION (1)(b)(i) OR (1)(b)(ii).

1 (~~cb-~~) "TAXING ENTITY" MEANS THE STATE OR ANY POLITICAL
2 SUBDIVISION OF THE STATE, INCLUDING WITHOUT LIMITATION ANY
3 GOVERNMENTAL BODY OR ENTITY AUTHORIZED TO LEVY A TAX,
4 ASSESSMENT, OR SPECIAL ASSESSMENT, ON REAL PROPERTY.

5 (10) THE PROVISIONS OF THIS SECTION SHALL BE LIBERALLY
6 CONSTRUED AND SHALL APPLY NOTWITHSTANDING ARTICLE IX SECTIONS 8
7 AND 23 OF THIS CONSTITUTION.

8 4. Severability

9 If any provision of this amendment or its application to any person or
10 circumstance is held invalid, the invalidity shall not affect other
11 provisions or applications of the amendment that can be given effect without
12 the invalid provision or application, and to this end the provisions of this
13 amendment are severable.

14 5. Legislative authority

15 Subject to the provisions of this amendment if adopted, the Legislature
16 or any other taxing entity so empowered may enact any measure designed to
17 further the purpose of this amendment.

18 6. Submission to voters

19 The Secretary of State shall submit this proposition to the voters at
20 the next general election as provided by Article XXI, of the Arizona
21 Constitution.