

**To: The Honorable Linda Gray
Arizona House of Representatives**

June 29, 2001

**Re: Workforce Development Account as
Local Revenues to Community Colleges
I01-015 (R00-082)**

Question Presented

Is Arizona Revised Statutes ("A.R.S.") § 15-1472(F) unconstitutional because it improperly amends or redefines the expenditure limit for community colleges in Article IX, § 21(1) of the Arizona Constitution?

Summary Answer

Article IX, § 21(1) of the Arizona Constitution prohibits the governing board of any community college district from authorizing expenditures of local revenues in excess of a prescribed limitation, except in the manner provided by law. Section 15-1472(F), A.R.S., which states that monies in community college district workforce development accounts shall not be considered local revenues, is within the Legislature's express power under § 21(1). Therefore, 15-1472(F) is not unconstitutional.

Background

A. Workforce Development Accounts.

Section 15-1472, A.R.S., establishes a workforce development account in each community college district. Districts are to use monies in the account for "workforce development and job training purposes," which may include:

- (1) partnerships with businesses and educational institutions;
- (2) [a]dditional faculty for improved and expanded classroom instruction and course offerings;
- (3) [t]echnology, equipment, and technology infrastructure for advanced teaching and learning in classrooms or laboratories;
- (4) [s]tudent services such as assessment, advisement, and counseling for new and expanded job opportunities; and
- (5) [t]he purchase, lease or lease-purchase of real property, for new construction, remodeling or repair of buildings or facilities on real property.

A.R.S. § 15-1472(B). This statute was part of a broad measure addressing public education in this State, parts of which were referred to the voters as Proposition 301 in the 2000 general election. *Id.* See 2000 Ariz. Sess. Laws, 5th Spec. Sess., ch. 1.

The work force development account receives its monies from the 0.6% increase in the transaction privilege tax rate approved in Proposition 301. Section 15-1472(F) specifically states that: "[m]onies received under this section shall not be considered to be local revenues for

purposes of Article IX, § 21, Constitution of Arizona." A.R.S. § 15-1472(F). Similar language was included in A.R.S. § 42-5010(G), which Arizona voters approved in Proposition 301: "The rates imposed pursuant to this subsection shall not be considered local revenues for purposes of Article IX, section 21, Constitution of Arizona."

B. Constitutional Expenditure Limits.

Article IX, § 21 of the Arizona Constitution prescribes the procedure for determining limits on expenditures of "local revenues" by school districts and community college districts. Paragraph 1 of § 21 provides that "[t]he governing board of any community college district shall not authorize expenditures of local revenues in excess of the limitation prescribed in this section, except in the manner provided by law." Ariz. Const. art. IX, § 21(1). "Local revenues" are defined as "all monies, revenues, funds, property and receipts of any kind whatsoever received by or for the account of a school or community college district or any of its agencies, departments, offices, boards, commissions, authorities, councils and institutions" Ariz. Const. art. IX, § 21(4)(c). The Constitution lists twelve categories of revenues that are specifically excluded from the definition of "local revenues." *Id.* at § 21(4)(c)(i) to (xii).

Arizona voters adopted Article IX, § 21 at a special election on June 3, 1980, and it became effective June 28, 1980. It was referred to the voters by the Legislature as one of several constitutional provisions to establish or amend limitations to expenditures and tax levies of the State and political subdivisions. See Ariz. Const. art. IX, § 17 (state expenditure limitation); *id.* §§ 18 and 19 (ad valorem tax limits); *id.* § 20 (county, city, and town expenditure limits); *id.* § 21 (community college and school district expenditure limits).

The expenditure limits generally sought "to limit expenditures of political subdivisions to fiscal year 1979-80 levels modified by annual adjustments to reflect changes in population and the cost of living." *La Paz County v. Yuma County*, 153 Ariz. 162, 167, 735 P.2d 772, 777 (1987). Section 21 furthers this purpose by prohibiting expenditures of local revenues in excess of the constitutional limit, which is calculated annually by the Economic Estimates Commission. See Ariz. Const. art. IX, § 17 (establishing economic estimates commission); A.R.S. § 41-563 (prescribing methodology for determining expenditure limits).

Analysis

In A.R.S. § 15-1472(F), the Legislature specifically excluded the workforce development account monies from "local revenues" under Article IX, § 21. You have asked whether this statute is constitutional. Because the question concerns the constitutionality of A.R.S. § 15-1472(F), the analysis is based on a presumption that all legislative enactments are constitutional. *State v. Cook*, 139 Ariz. 406, 408, 678 P.2d 987, 989 (App. 1984). Any doubts will be resolved in favor of constitutionality. *State v. Arnett*, 119 Ariz. 38, 48, 579 P.2d 542, 552 (1978).

The expenditure limit for community colleges provides that expenditures in excess of the constitutional limitation may be authorized in a "manner provided by law." Ariz. Const. art. IX, § 21(1) ("The governing board of any community college district shall not authorize expenditures of local revenues in excess of the limitation prescribed in this section, except in the manner provided by law."). This provision authorizes the Legislature to make exceptions from the community college district expenditure limit set out in Art. IX, § 21. The broad grant of authority to the Legislature is not limited by the language of § 21 itself. Under its power to authorize expenditures in excess of the expenditure limit, the Legislature could, therefore, exclude monies from "local revenues" as it did in A.R.S. § 15-1472(F).

This conclusion is supported by contrasting the Legislature's authority regarding the community college expenditure limit with other expenditure limits in the Constitution. For example, the aggregate school district limitation, also in Art. IX, § 21, includes a much more limited legislation authorization. "The aggregate expenditures of local revenues for all school districts shall not exceed the limitation prescribed in this section, except as provided in subsection (3) of this section." Ariz. Const., art. IX, § 21(2). Subsection (3) provides that the limitation for school districts may be authorized for a single fiscal year upon affirmative vote of two-thirds of the membership of each house of the legislature. Similarly, the expenditure limitation applicable to counties, cities and towns provides: "The governing board of any political subdivision shall not authorize expenditures of local revenues in excess of the limitation prescribed in this section, except as provided in subsections (2), (6) and (9) of this section." Ariz. Const., art. IX, § 20(1). Subsections (2), (6) and (9) allow excess expenditures under certain specified circumstances, but none give the Legislature the broad authority contained in § 21(1) which governs community college districts.

A comparison of the community college provision with the state expenditure limitation is also instructive. Article IX, § 17 provides that the Legislature cannot appropriate for any fiscal year state revenues in excess of seven per cent of the total personal income of the State for that fiscal year. As originally adopted in 1978, § 17 stated that "[f]or purposes of this section, 'state tax revenues' shall be defined by law." Laws 1978, S.Con.Res. No. 1002, § 1. This Office concluded this language "delegates to the Legislature the authority to define 'State tax revenue' for purposes of the [state expenditure] limitation." Ariz. Att'y Gen. Op. 178-283. In 1980, at the same special election at which voters approved the expenditure limitation for community colleges, § 17 was amended to specifically define "state revenues" and delete the Legislature's authority to define the term. Laws 1980, 2nd Spec.Sess., S.Con.Res. 1001, § 6. In contrast, § 21 gave the Legislature express authority to permit community college districts to exceed the expenditure limit. The differences between the various expenditure limits show that the drafters knew how to restrict the Legislature's power but chose to give the Legislature discretion to make exceptions affecting the expenditure limits for community college districts.

It might be argued that, although the Constitution authorizes the Legislature to allow excess expenditures of local revenues, this authorization does not permit the Legislature to exclude certain monies from the definition of local revenues as it did in A.R.S. § 15-1472(F). This interpretation would unduly restrict the Legislature's broad constitutional authority to permit community college districts to exceed the expenditure limit. Constitutional provisions should be interpreted "to effectuate the intent of those who framed the provision and, in the case of an amendment, the intent of the electorate that adopted it." *Jett v. City of Tucson*, 180 Ariz. 115, 119, 882 P.2d 426, 430 (1994). The Constitution plainly left the Legislature discretion regarding expenditure limits for community college districts. The Legislature's decision to exercise this discretion by excluding the workforce development account from "local revenues" is within its power under Art. IX, § 21(1).

Article II, § 32 of the Arizona Constitution does not require a different conclusion. That section states: "[T]he provisions of this constitution are mandatory, unless by express words they are declared to be otherwise." The express words of Art. IX, § 21 give the Legislature the authority to allow community college district expenditures in excess of the calculated limitation.

Conclusion

Section 15-1472(F), A.R.S., which states that monies in community college district workforce development accounts shall not be considered local revenues, is not unconstitutional under Art.

IX, § 21.

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