AGENDA MATERIAL

DATE 6/18/19 ITEM NO. RA 14

MEMORANDUM

Date: June 14, 2019

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

From: C.H. Huckelberry
County Administrator

Re: **Budget**

A member of the Board of Supervisors has asked additional questions with regard to Budget Adoption scheduled for June 18, 2019. These questions and answers are listed below:

1. When can an override election of the constitutional expenditure limitation occur and if there is no override, what happens to the revenues that would have been spent had the override been successful?

   Article IX Section 20(6) states the following:

   "Any political subdivision may adjust the base limit by the affirmative vote of two-thirds of the members of the governing board or by initiative, in the manner provided by law, and in either instance by approval of the proposed adjustment by a majority of the qualified electors voting at a regularly scheduled general election or at a nonpartisan election held for the nomination or election of the members of the governing board. The impact of the modification of the expenditure limitation shall appear on the ballot and in publicity pamphlets, as provided by law. Any adjustment, pursuant to this subsection, of the base limit shall be used in determining the expenditure limitation pursuant to subsection (1) of this section beginning with the fiscal year immediately following the approval, as provided by law."

   County override elections, of the constitutional expenditure limitation approved as above in a general election of the County, are effective in the subsequent fiscal years. The purpose of the override election is to allow revenues of the County in any form, not only property taxes, but state-shared revenues, impact fees, other fees and charges of the County to be spent. If an override election is not successful, these revenues cannot be spent and continue to accumulate in appropriate accounts of the County without being spent for the purpose for which they have been levied or assessed.

2. How is the truth-in-taxation (TNT) rate and levy calculated?

   The TNT tax rate for County Primary, Flood Control District and Library District are calculated based on the idea that the jurisdiction will not levy more dollars on taxpayers whose properties existed during the prior fiscal year. This means the TNT tax rate and levy do not include new construction growth in the tax base.

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The calculation uses the prior fiscal year adopted levy divided by the taxable net assessed valuation for property owners who were on the prior year's tax roll.

Attachment 1 shows the FY 2019/20 TNT rate calculation for each County Fund.

To assist you in following the calculations, Attachment 2 shows the FY 2018/19 Adopted Tax Levies for each County Fund.

The Property Tax Oversight Commission will often send jurisdictions its calculations of the TNT rates. The Property Tax Oversight Commission FY 2019/20 TNT Worksheets for County Primary, Regional Flood Control District, and Library District are shown in Attachment 3, with the yellow highlighted TNT rate at the bottom of each table.

The Property Tax Oversight Truth In Taxation Worksheets also show the FY 2019/20 taxable net assessed valuation for property owners whose property existed in the prior year's tax roll. This number is highlighted in yellow and comprises the denominator in the Truth In Taxation rate calculations that appear in Attachment 1 and at the bottom of each Property Tax Oversight Commission Truth In Taxation Worksheet in Attachment 3.

Table 1 below lists the TNT rates for all County levies and rates since FY 2016/17:

Table 1: PIMA COUNTY TAX RATES

COUNTY FUND	FISCAL YEAR	ADOPTED TAX RATE	TRUTH IN TAXATION RATE	TNT Hearing Required?
Primary	**FY 16/17**	**4.2896**	**4.3581**	**No**
includes road primary tax	**FY 17/18 ***	**4.4596**	**4.2119**	**Yes**
	FY 18/19	**4.0696**	**4.4014**	**No**
tentative adopted rate	**FY 19/20**	**3.9996**	**3.9257**	**Yes**
Flood Control	**FY 16/17**	**0.3335**	**0.3088**	**Yes**
	FY 17/18	**0.3135**	**0.3235**	**No**
	FY 18/19	**0.3335**	**0.3088**	**Yes**
tentative adopted rate	**FY 19/20**	**0.3335**	**0.3208**	**Yes**
Library District	**FY 16/17**	**0.5153**	**0.5118**	**Yes**
	FY 17/18	**0.5053**	**0.5060**	**No**
	FY 18/19	**0.5153**	**0.4987**	**Yes**
tentative adopted rate	**FY 19/20**	**0.5353**	**0.4971**	**Yes**

3. Is there a pay-as-you-go (PAYGO) plan?

   The plan now is to accumulate the needed revenues and have those expended through the Board approved and adopted capital improvement program. If the Board desires, a very specific PAYGO plan can be developed for the County listing how projects would be selected and implemented over the next four years to guide the annual capital plan. As I stated in a previous memorandum, the lion's share of PAYGO revenues are dedicated to increasing the General Fund (GF) expenditure for road repair by $5 million per year.

4. What happens if the Board fails to adopt a budget?

   Attachment 4 is a 1978 County Attorney opinion on this subject. A confidential attorney/client privilege memorandum from the Chief Civil Deputy County Attorney is being provided to the Board Members only. In essence, the tax levies of last year would control this fiscal year Budget, which means levies would be less than now proposed as sown in Table 2 below:

Table 2: Pima County Property Tax Levy
FY 2018/19 Adopted versus FY 2019/20 Tentative

	Adopted Tax Levy	Tentative Adopted Levy	
	FY 2018/19	**FY 2019/20**	**Reduction**
Primary	$339,156,105	$349,163,676	$10,007,571
Flood Control District	25,266,454	26,495,639	1,229,185
Library District	42,944,550	46,731,502	3,786,952
Debt Service	$57,503,861	$60,236,758	$2,732,897
		Total Reduction	**$17,756,605**

There is no requirement to adopt a budget before July 1, 2019. The statutes require the Board to adopt a budget each year not later than two weeks before the date of the tax levy. This year, the tax levy is on August 19, 2019. Thus, the Board has until August 5, 2019 to adopt the budget for the next fiscal year.

CHH/lab

Attachments

c: Jan Lesher, Chief Deputy County Administrator
Tom Burke, Deputy County Administrator for Administration
Michelle Campagne, Director, Finance and Risk Management
Robert W. Johnson, Deputy Director, Finance and Risk Management
Patrick McGee, Budget Manager, Finance and Risk Management

ATTACHMENT 1

TRUTH IN TAXATION TAX RATES CALCULATIONS FOR FY 2019-20

Pima County Primary Truth In Taxation Rate Calculation

$$\text{TNT Rate} = \frac{\text{Prior Fiscal Year Adopted Primary Tax Levy } \$339,156,105}{\text{Line B.5. from 2019 Levy Limit Worksheet } \$86,394,887} = \$3.9256502 = \$3.9257 \text{ rounded to 4 decimal places}$$

Pima County Flood Control District Truth In Taxation Rate Calculation

$$\text{TNT Rate} = \frac{\text{Prior Fiscal Year Adopted Flood Control Tax Levy } \$25,266,454}{\text{Total Assessed Value for Current Year Net Assessed Value Subject To Taxation In Prior Year / } \$100 \text{ } \$78,751,320} = \$0.3208385 = \$0.3208 \text{ rounded to 4 decimal places}$$

Pima County Library District Truth In Taxation Rate Calculation

$$\text{TNT Rate} = \frac{\text{Prior Fiscal Year Adopted Library District Tax Levy } \$42,944,550}{\text{Total Assessed Value for Current Year Net Assessed Value Subject To Taxation In Prior Year / } \$100 \text{ } \$86,394,887} = \$0.4970728 = \$0.4971 \text{ rounded to 4 decimal places}$$

ATTACHMENT 2

PIMA COUNTY FISCAL YEAR 2018/19 TAX LEVY

JURISDICTION	VALUATION	TAX LEVY	RATE
STATE OF ARIZONA:			
State of Arizona Property Tax			
Primary	8,333,892,906	0	0.0000
STATE (EDUCATION) EQUALIZATION ASSISTANCE TAX:			
Primary	8,333,892,906	39,510,986	0.4741
PIMA COUNTY:			
Primary			
General Fund	8,333,892,906	339,156,105	4.0696
Transportation Property Road Tax		0	0.0000
TOTAL PRIMARY		339,156,105	4.0696
Secondary			
County Free Library	8,333,892,906	42,944,550	0.5153
Debt Service	8,333,892,906	57,503,861	0.6900
Flood Control District	7,576,148,151	25,266,454	0.3335
Fire District Assistance	8,333,892,906	3,675,247	0.0441
TOTAL PIMA COUNTY		468,546,217	5.6525
PIMA COMMUNITY COLLEGE:			
Primary	8,333,892,906	116,532,824	1.3983
CENTRAL ARIZONA WATER CONSERVATION DISTRICT:			
Ad Valorem Secondary	8,333,892,906	8,333,893	0.1000
Water Storage Secondary	8,333,892,906	3,333,557	0.0400
Ground Water Replenishment			
Category 1 Member Lands			
Water Usage (rate per acre-foot and usage of 873.67 acre-feet)		626,421	717.0000
Membership Dues (rate per lot, with 15,760 lots assessed)		386,750	24.5400
Total Category 1 Member Lands		1,013,171	
Category 2 Member Lands			
Water Usage (rate per acre-foot and no usage)		0	614.0000

ATTACHMENT 3

2019 LEVY LIMIT WORKSHEET

PIMA COUNTY

MAXIMUM LEVY	2018
A.1. Maximum Allowable Primary Tax Levy	$434,204,154
A.2. A.1 multiplied by 1.02	$442,888,237

CURRENT YEAR NET ASSESSED VALUE SUBJECT TO TAXATION IN PRIOR YEAR	2019
B.1. Centrally Assessed	$598,858,322
B.2. Locally Assessed Real Property	$7,786,518,358
B.3. Locally Assessed Personal Property	$254,112,039
B.4. Total Assessed Value (B.1 through B.3)	$8,639,488,719
B.5. B.4. divided by 100	$86,394,887

CURRENT YEAR NET ASSESSED VALUES	2019
C.1. Centrally Assessed	$614,350,631
C.2. Locally Assessed Real Property	$7,852,534,199
C.3. Locally Assessed Personal Property	$263,080,093
C.4. Total Assessed Value (C.1 through C.3)	**$8,729,964,923**
C.5. C.4. divided by 100	$87,299,649

LEVY LIMIT CALCULATION	2019
D.1. LINE A.2	$442,888,237
D.2. LINE B.5	$86,394,887
D.3. D.1/D.2 (MAXIMUM ALLOWABLE TAX RATE)	**5.1263**
D.4. LINE C.5	$87,299,649
D.5. D.3 multiplied by D.4 = MAXIMUM ALLOWABLE LEVY LIMIT	**$447,524,191**
D.6. Excess Collections/Excess Levy	
D.7. Amount in Excess of Expenditure Limit	
D.8. ALLOWABLE LEVY LIMIT (D.5 - D.6 - D.7)	**$447,524,191**

2019 New Construction	$90,476,204

Prior year actual levy (from line F.1 of the 2018 worksheet)	$339,156,105
Divided by current values excluding new construction per line B.5	$86,394,887
Truth in Taxation Rate	**3.9257**

If the proposed tax rate is greater than the Truth in Taxation Rate noted above, a truth in taxation hearing must be held. If the proposed levy, excluding new construction, is equal to 15% or more, the motion to levy the increase must be approved by a unanimous roll call vote. (*see A.R.S. § 42-17107*)

Pima County Primary Truth In Taxation Rate Calculation

$$\text{TNT Rate} = \frac{\text{Prior Fiscal Year Adopted Primary Tax Levy}}{\text{Line B.5. from 2019 Levy Limit Worksheet}} = \frac{\$339,156,105}{\$86,394,887} = \$3.9256502 = \$3.9257 \text{ rounded to 4 decimal places}$$

2019 TRUTH IN TAXATION WORKSHEET

PIMA COUNTY FLOOD CONTROL DISTRICT

CURRENT YEAR NET ASSESSED VALUE SUBJECT TO TAXATION IN PRIOR YEAR	2019
Centrally Assessed	$88,613,619
Locally Assessed Real Property	$7,786,518,358
Total Assessed Value	$7,875,131,977
Total Assessed Value divided by 100	$78,751,320

CURRENT YEAR NET ASSESSED VALUES	2019
Centrally Assessed	$92,185,156
Locally Assessed Real Property	$7,852,534,199
Total Assessed Value	**$7,944,719,355**
Total Assessed Value divided by 100	$79,447,194

2019 New Construction	$69,587,378

Prior year actual levy	$25,266,454
Divided by current values excluding new construction ÷ 100	$78,751,320
Truth in Taxation Rate	**0.3208**

If the proposed tax rate is greater than the Truth in Taxation Rate noted above, a truth in taxation hearing must be held. (*see A.R.S. § 48-254*)

Pima County Flood Control District Truth In Taxation Rate Calculation

$$\text{TNT Rate} = \frac{\text{Prior Fiscal Year Adopted Flood Control Tax Levy}}{\text{Total Assessed Value for Current Year Net Assessed Value Subject To Taxation In Prior Year / \$100}} = \frac{\$25,266,454}{\$78,751,320} = \$0.3208385 = \$0.3208 \text{ rounded to 4 decimal places}$$

2019 TRUTH IN TAXATION WORKSHEET

PIMA COUNTY FREE LIBRARY DISTRICT

CURRENT YEAR NET ASSESSED VALUE SUBJECT TO TAXATION IN PRIOR YEAR	2019
Centrally Assessed	$598,858,322
Locally Assessed Real Property	$7,786,518,358
Locally Assessed Personal Property	$254,112,039
Total Assessed Value	$8,639,488,719
Total Assessed Value divided by 100	$86,394,887

CURRENT YEAR NET ASSESSED VALUES	2019
Centrally Assessed	$614,350,631
Locally Assessed Real Property	$7,852,534,199
Locally Assessed Personal Property	$263,080,093
Total Assessed Value	**$8,729,964,923**
Total Assessed Value divided by 100	$87,299,649

2019 New Construction	$90,476,204

Prior year actual levy	$42,944,550
Divided by current values excluding new construction ÷ 100	$86,394,887
Truth in Taxation Rate	**0.4971**

If the proposed tax rate is greater than the Truth in Taxation Rate noted above, a truth in taxation hearing must be held. (*see A.R.S. § 48-254*)

Pima County Library District Truth In Taxation Rate Calculation

$$\text{TNT Rate} = \frac{\text{Prior Fiscal Year Adopted Library District Tax Levy}}{\text{Total Assessed Value for Current Year Net Assessed Value Subject To Taxation In Prior Year / \$100}} = \frac{\$42,944,550}{\$86,394,887} = \$0.4970728 = \$0.4971 \text{ rounded to 4 decimal places}$$

ATTACHMENT 4

OFFICE OF THE
Pima County Attorney
CIVIL DIVISION
900 PIMA COUNTY COURTS BUILDING
111 WEST CONGRESS STREET
Tucson, Arizona 85701
(602) 792-8321

STEPHEN D. NEELY
PIMA COUNTY ATTORNEY
DAVID G. DINGELDINE
CHIEF DEPUTY

OPINION NO. 228

June 13, 1978

TO: William E. Meade, Deputy Finance Director

FROM: Pima County Attorney, Civil Division

QUESTION:

What is the effect of the Board of Supervisors' failure to adopt a final budget in August, 1978?

ANSWER:

The action of adopting a budget would be considered mandatory because it is for the benefit of the taxpaying public and because of the language of the budget law. Therefore, the failure to adopt a budget could result in a taxpayer's suit in mandamus compelling the Board to adopt a budget.

However, the Board does have discretion under recent amendments to the budget law to refuse to increase the tax levy since the law requires a motion and an affirmative roll call vote in the event that the tax levy will need to be increased over the previous year's levy. If such a motion fails then the Board cannot levy taxes in excess of the previous year and the budget must be adjusted to last year's tax levy and estimated income from other sources. (See example attached.)

Respectfully submitted,

STEPHEN D. NEELY
PIMA COUNTY ATTORNEY

By Rose Silver
Rose Silver, Special Counsel
to the Civil Division

APPROVED:

James M. Howard, Chief Civil
Deputy County Attorney

By
Howard L. Baldwin
Deputy County Attorney

EXAMPLE

Definitions:

"Levy" is the amount of budgeted revenue needed from property taxes.

"Assessed valuation" is the taxable value of all taxable property within the County.

"Tax rate" is the amount per $100 of assessed valuation needed to accomplish the levy.

The tax rate is determined by dividing the assessed valuation of all the property within the County into the levy, which result in turn is divided by 100.

A county budget can be comprised of various types of revenue, one of which is revenue from property taxation (the levy). If the county budget were to be a total of one hundred million dollars, the revenue could be comprised of 50 million dollars from general sources such as fees, permits, grants, etc., and 50 million dollars from property taxation (the levy).

In the event that a subsequent year's budget would total, for example, 110 million dollars and revenue from general sources was only 55 million dollars, the levy necessary would be 55 million dollars. In this event the budget law would require an affirmative roll call vote in order to increase the levy from 50 million dollars to 55 million dollars.

In the event that the motion fails, the County would be restricted to spending only 50 million dollars of revenue from property taxes. That amount added to the general revenue of 50 million dollars would result in a 100 million dollar budget. That budget would then have to be readjusted from 110 million dollars to reflect the total. This adjustment can be accomplished by revising all or any portion of the budget the governing body desires.

Another example is: Should the income from all other sources be 60 million dollars, the levy for a 110 million dollar budget would remain the same 50 million dollars, and in that event no roll call vote would be necessary and the budget would not have to be adjusted.

It should be kept in mind that in no event may the final budget exceed the 10% income limitation over the prior year's budget, nor may the subsequent year's levy exceed 10% more than the prior year's levy.

June 13, 1978

Notes re: Opinion No. 228

The following question has been propounded: What is the effect of the Board of Supervisors' failure to adopt the final budget in August, 1978?

The pertinent statutes governing this question are A.R.S. § 42-302 and -303, particularly subdivisions B and E of said Section 303, as amended.

Considerable research has been done pertaining to the direct question asked and there is a complete absence of Arizona law on this point. However, the Supreme Court of Arizona has made it clear that where provisions of the law are for the protection or benefit of the taxpayer the statute is generally considered to be mandatory. County of Maricopa v. Garfield, 109 Ariz. 503, 513 P.2d 932 (1973).

Therefore, the shortanswer to the question posed is that if the Board failed to adopt a final budget a taxpayer could file a special action in the nature of mandamus and compel the Board to adopt a budget.

The language of A.R.S. § 42-303(B) supports the proposition that the Board's duty is mandatory in adopting a budget. That section provides as follows:

> "When the hearing is concluded, the governing board shall convene in a special board meeting and finally determine and adopt estimates of proposed expenditures for the various purposes set forth in the published proposal and such adopted estimates shall constitute the budget of the county, city or town for the current fiscal year. . . ."

Obviously, of course, the Board has discretion as to what must comprise the budget, and it has further discretion as to whether or not it wants to increase the tax levy.

This discretion involving the tax levy leads us to the next part of the question asked because it is not mandatory upon the Board to vote to increase the tax levy. "Levy" has been defined by a Washington Court as follows:

> The word "levy" when used in connection with the authority to tax, while assuming other meanings through interchangeable or indiscriminate usage, strictly speaking denotes the exercise of a legislative function, whether state or local, which determines that a tax shall be imposed, and fixes the amount, purposes, and subject of the exaction. Carkonen v. Williams, 458 P.2d 280 (Wash. 1969).

Recent amendments to the budget law require a motion and affirmative roll call vote on the part of the Board of Supervisors in the event that the property tax levy will be in excess of the tax levy in the previous fiscal year. A.R.S. § 42-303(B).

The statutes provide a specific mechanism for what must occur should the motion to increase the levy fail or should the Board not entertain such a motion. A.R.S. § 42-303(E) provides:

> "If the motion prescribed by subsection B of this section fails, any property tax levied pursuant to this title for county, city or town purposes in the budget year shall be the same amount levied for comparable purposes in the preceding budget year and the jurisdiction shall adjust the budget according to the revenue that will be raised. If the motion prescribed by subsection B of this section passes, the allowable property tax levy increase shall not exceed limitations otherwise imposed by this title."

Thus, it can be seen from subsection E that upon failure of the motion, ir if no motion was made and a levy increase is contemplated, such increase cannot occur and the amount levied may not exceed the amount levied for the previous year's budget, and the proposed or tentative budget must be adjusted so that the tax revenue portion of the budget does not exceed last year's levy.

So far, this discussion has been limited to the revenue raised by taxes on assessed property valuations. Revenue from other sources must also be taken into account.