

Protecting the Arizona Trust

Presented by
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Mary Judge Ryan

- Teacher
- Lawyer
- Parent
- Citizen

Prop 123

- The story of Prop 123
- Unfortunately it is not fiction

Arizona school trust lands are under attack.

- In May 2016, with a political slight of hand, the educators and voters of Arizona were duped into raiding the school trust land funds in the name of saving public education.
- This presentation will outline the methods used by the Governor of Arizona to successfully raid education funding and the efforts to take back those funds.

Our Roadmap

- History of the Arizona Enabling Act
- Arizona education funding
- Prop 301
- Legislature's response
- Lawsuit
- Prop 123
- What now?

History of the AZ Enabling Act

- Enabling Act 28 Stat. 557, § 28 (1910).
- 1910 prior to AZ statehood
- Condition of statehood
- Land grant to the new State for limited use
- 90% of overall distribution was to go to public education
- Trust created in perpetuity
- Violations are a breach of trust

Arizona Education Funding

- Per pupil spending Rank 49th
- Arizona = \$8,786.00 per pupil
- Nationally = \$12,774.00 per pupil
- Median Teacher salaries – rank 50th
- Median Teacher pay \$39,000.

Teacher Shortages

- 2,100 vacancies
- 2,200 others filed with alternate certifications
- Legislative response is to do away with certification requirement
 - 5 years of 'relevant experience'

Prop 301

- Our story begins
- In 2000 Arizona voters passed Proposition 301- statewide sales tax increase of .6% for 20 years to provide additional resources for education programs.
- The measure included a requirement, codified at A.R.S §15-901.01, that the legislature make annual inflation adjustments to the budget for K- 12 public schools.

Legislature's Response

- Hell No!
- Legislature collected the money
- Beginning in 2010 refused to fund education as required

Lawsuit

- Lawsuit filed in 2010 challenging Arizona's failure to increase education funding as required by Proposition 301
- *Cave Creek Unified School District, et al. v. Jeff DeWit, et al., Maricopa County Superior Court Case No. CV 2010*

Court Rulings

- We won!!!!
- Arizona Court of Appeals held that the legislature was required to provide the annual inflationary increase. *Cave Creek Unified School District, et al. v. Jeff DeWit, et al., 231 Ariz. 342, 345, 295 P.3d 440, 443 (App. 2013),*
- Arizona Supreme Court affirmed, *Cave Creek Unified School Dist. v. Ducev, 233 Ariz. 1, 308 P. 3d 1152 (2013).*
- Ordered to pay **\$1.6 billion**
- Legislature refused to fund

Result

- Schools caved
- Entered into settlement talks with state

Culprits

- Arizona School Board Association
- Teachers Associations
- Duped into believing something was better than nothing

Prop 123

- Legislatively-referred constitutional amendment.
Companion bill HB 2001
- Special election
- Grassroots opposition raised \$16,000.00
- Proponents spent \$5 million

Prop 123- What it Does

- HB 2001/Proposition 123 increased the annual distribution from the Trust Land Permanent Funds
- Fiscal years 2016-2025
- Increased distributions from 2.5% to 6.9%.
- Triggers that allow legislature to not fund education

- \$3.5 billion over 10 years
- Raises the base level of per pupil funding from \$3,426.74 to \$3,600
- Schools decide how to spend the money – no requirements in Proposition

Prop 123

- Passed in May 2016
- Vote was close- Yes 50.8%, No 49.2%
- The measure was designed to *settle Cave Creek Unified School District, et al. v. Jeff DeWit, et al., Maricopa County Superior Court Case No. CV2010*, a lawsuit filed in 2010 challenging Arizona's failure to increase education funding as required by Proposition 301.

Triggers

- Permits the Proposition 301 inflation factor to be suspended for any fiscal year that Transaction Privilege Tax (TPT) and employment growth are between one and two percent. Mandates that the Proposition 301 inflation factor be suspended if TPT and employment growth are less than one percent.
- Allows the Legislature, beginning in FY 2026, to suspend inflation payments and reduce K-12 funding if K-12 accounts for at least 49 percent of state General Fund spending.
- Stipulates that if it is 49 percent, the Legislature will be able to reduce K-12 spending by the amount that it was inflated in the prior year and if it is 50 percent or more of state General Fund spending, then the Legislature may reduce spending by twice the inflation amount from the prior year.

“We’ve been played”

4% increase in teacher salaries

\$200 per year

Ducey promises to reach 2% increase by 2020!

Violations

- 1) Failure to obtain Congressional approval to change Enabling Act provisions relative to the school trust prior to implementation of Proposition 123

Violations

- 2) Unlawful depletion of the Arizona Permanent School Fund;

Violations

- 3) Use of a portion of Arizona Permanent School Fund for an impermissible purpose,
 - namely to settle a lawsuit brought by school districts to recover an unrelated debt owed to the public schools by the State of Arizona.
 - This is the express purpose of Prop 123.

Violations

- Expenditures on Charter Schools- violation of express terms of the Enabling Act

Remedy

- The Attorney General of the United States is expressly charged with the duty "to prosecute, in the name of the United States and in its courts, such proceedings at law or in equity as may from time to time be necessary and appropriate to enforce the provisions hereof relative to the application and disposition of the said lands and the products there of and the funds derived therefrom." Act, 28 Stat. 557, § 28 (1910).

- In October 2016 request sent to US AG Loretta Lynch
- Signed by Margaret Bird
- 5 Arizona attorneys

Prop 123 Lawsuit

- We shopped the lawsuit to no avail.

Problems

- Result of November election
- Jeff Sessions
- Betsy DeVos

What Now?

- A year after voters passed Prop. 123 to resolve a \$1.6 billion lawsuit over school funding
- Teachers are insulted by increases
- 30% of Prop 123 money went to TUSD salaries
- TUSD \$700.00 dollar increase- 1.75% of \$40,000.00
- Too little to late....