BALLOT PROPOSITION #106
Conserving Arizona's Future

FISCAL ANALYSIS

Description

Proposition 106 would do the following:

1. Establishes a 7 member Board of Trustees and allows the board to prescribe a method by which the highest and best bid will be determined.
2. Designates approximately 260,000 acres of trust land as "Permanent Reserve Lands" for conservation, which can be conveyed to a city, town or county without receiving compensation.
3. Designates approximately 361,000 acres of trust land as "Provisional Reserve Lands" for conservation. These lands must be conveyed to a political subdivision of the state, a federal agency, or a nonprofit organization organized for purposes of conservation. Before "Provisional Reserve Lands" are conveyed, monetary or non-monetary compensation equal to the true value of the conveyed land must be provided to the land's designated beneficiary.
4. Designates approximately 73,000 acres of trust land as "Educational Reserve Lands" for conservation. These lands may be conveyed to the Arizona Board of Regents on request for education and research. Up to 50 acres of the reserve lands can be used for buildings and related infrastructure.
5. Allows public rights of way for roadways, trails, drainage, flood control and utility purposes to be conveyed for non-monetary consideration and without auction.
6. Allows trust land to be conveyed for consideration consisting of a share of gross revenues generated by subsequent leases or sales if approved by the Board of Trustees and there is ample security for the consideration.
7. Allows the Board of Trustees to designate any part of trust land, beyond the acreage listed above, for conservation purposes if the monetary or non-monetary compensation that has, or will be, received is equal to the true value of the land with certain limits.
8. Creates the Trust Land Management Fund that is subject to legislation appropriation. Monies in the fund cannot be used to supplant current funding. If the fund's value is 2 times larger than the trust land related operating budget, the excess amount shall be deposited into the permanent fund. If the book value of the Permanent Fund is less than $7 billion, the Trust Land Management Fund will receive up to 5% of the deposits into the state trust land Permanent Fund averaged over the past 5 fiscal years. If the book value of the permanent fund is more than $5 billion then the Trust Land Management Fund will receive up to 8% of the monies derived from rentals, interest on installment sales, and Permanent Fund interest earnings. The current Permanent Fund book value is $1.7 billion.
9. Does not become effective unless Congress amends the Arizona-New Mexico Enabling Act by December 31, 2008 to allow the state to implement the initiative.

Estimated Impact

Proposition 106 contains provisions that may increase future revenues to state trust land beneficiaries and other provisions that may reduce revenues that otherwise would have been received by these beneficiaries. The proposition sets aside a percent of the proceeds from the disposition of state trust land for trust land administration. This provision may initially provide up to $6 million annually from proceeds that would otherwise have been invested for the beneficiaries. The additional administrative funding may permit the state to prepare trust land parcels for sale or lease more quickly, which may accelerate revenues to beneficiaries. The value of land generally appreciates over time. If state trust land is sold earlier under the proposition, the longer term fiscal impact may depend, at least in part, on the rate of investment returns of the accelerated revenue compared to the sale price at a later date.

The proposition would permit certain parcels of trust land to be used for conservation without compensation. In this circumstance, the trust beneficiaries would not receive the proceeds from the sale of this land. The level of foregone revenue is difficult to predict in advance.

The State Land Department has no estimate of the fiscal impact of this proposition.

Analysis

State trust lands were granted to the state by the federal government at the time of statehood. Those lands are held in trust for specific beneficiaries, including public schools and universities and other public institutions and state agencies. Revenues derived from land leases or sales are used to fund the beneficiaries of the specific parcel that generated the revenue. Currently, lands must be dispositioned at auction at a minimum of the appraised or “true” value. Revenues from the sale of lands are deposited into a Permanent Fund, which earns interest. Interest from the Permanent Fund, as well as proceeds from leases, mineral royalties, rights-of-way, interest on financed sales and other non-permanent dispositions are distributed directly to the beneficiaries. Currently, the permanent fund is $1.7 billion. Estimated FY 2006 distributions to beneficiaries were $102.8 million.

Designating State Trust Land for “Permanent Reserve Lands”

The proposition requires that approximately 260,000 acres of state trust land be designated as “Permanent Reserve Lands” which will be conveyed without consideration to a local government and must be used and managed for conservation. Under current requirements, this land would be zoned for its best use and be sold or leased at an auction to the highest bidder. Providing the land for no consideration would result in forgone revenues from state trust land to the beneficiaries. The impact of this reduction would depend on value of the land that could otherwise be sold or leased. Existing leases or rights of way would be allowed to continue and be renewed.

According to the State Land Department, 15,281 acres of the Permanent Reserve lands are located in Maricopa County, 27,678 acres in Pima County, and 216,757 acres in the rest of the state.

During the first two quarters of FY 2006, the State Land Department sold 1,162 acres of trust land for about $326.8 million, resulting in revenues of $281,200 per acre. In FY 2005, the State Land Department had commercial leases on 81,314 acres that generated $18.5 million in revenues or $227.00 per acre. Lands outside of Maricopa or Pima counties were sold or granted perpetual right of way at an average value of $18,700 per acre annually. These sales and leases represent lands that were ready for disposition and would have a higher sale price than an average parcel of trust land. Another source of comparison is a 2004 study conducted by Robert Charles Lesser & Co., LLC, commissioned by certain beneficiaries and other stakeholders. This study estimated the average value of trust land in the Phoenix Metro area at between $69,000 and $83,000 per acre. Trust land in the Tucson Metro area was estimated in the $40,000 to $45,000 per acre range.

These prices do not necessarily reflect the value of the Permanent Reserve Lands. The value of the land is highly dependent on its location, timing of the sale, how developable the land is, and the manner in which the land is disposed (i.e. leased, sold, mined, grazed, etc).

Designating State Trust Land for “Provisional Reserve Lands”

The proposition will designate approximately 360,000 acres of state trust land as “Provisional Reserve Lands.” Of these acres, 36,879 are in Maricopa County, 206,790 are in Pima County and 117,334 are in the rest of the state. The Provisional Reserve Lands can be set aside without auction for conservation with monetary or non-monetary compensation, such as density transfers or other such allowances, equal to the true value of the land. This means that the trust will have to receive value for the lands equal to the minimum price that could be paid for the lands at auction. *(See Auction Requirements section below for additional details.)*

Designate State Trust Land for “Education Reserve Lands”

The proposition will designate approximately 73,000 acres of state trust land for “Education Reserve Lands.” These lands will be conveyed to the Board of Regents without consideration. These lands are currently in use by the Universities who lease the land from the State Land Department. Since the Universities are the beneficiaries of these lands, they receive all lease revenue generated from these lands. Therefore, there would be no impact on the Universities.

Auction Requirements

Several provisions would allow the Board of Trustee to decide whether to convey certain trust lands with or without a public auction. Auctions for the sale or lease of state trust land can produce returns above the appraised value. For example, in FY 2006, 14% of State Land auctions resulted in a price higher than the appraised minimum value, adding a total of $39 million or 10.5% to the trust land revenues that year. This premium may have also reflected the substantial acceleration in land prices during the last several years. The board may opt to continue to use auctions. If the Board foregoes an auction, it would still be required to sell the land at the appraised price. Without the auction, however, there is the potential of foregoing gains above the appraised price.

Rights-of-Way

The proposition allows rights-of-way be conveyed for non-monetary consideration and without auction. As with the designation of Provisional Reserve Lands, the trust must receive compensation equal to the minimum price of the land conveyed.

Participation Agreements

The proposition allows the state to convey the title of trust land for a share of the gross revenues generated by subsequent sales and leases if there is ample security and the Board of Trustees approves the transaction. Currently, the title cannot be conveyed until full compensation is received. Providing land for a share of gross revenues creates a higher level of uncertainty than when the land is sold or leased outright. As with investments in general, there is a possibility for either greater or lesser returns. At this point, neither the State Land Department nor the proponents of this measure have produced an estimate of the fiscal impact associated with this provision.

Trust Land Planning

The proposition requires land use plans for state trust land to be prepared in conjunction with local government's rules, regulations and ordinances, as long as those ordinances apply equally to private land. A local government may require a percentage of land to be set aside for conservation beyond the requirements of this proposition, which could result in foregone revenue to the trust land beneficiaries as state trust land cannot be set aside for conservation currently. The proposition allows additional land to be set aside for conservation in a land use plan if the designation of additional lands does not affect the total true value of the land within certain limits. To the extent that compensation is provided, this provision may have no effect on state trust land revenues. These lands are conveyed without auction.

Trust Land Management Fund

The proposition creates a new "Trust Land Management Fund" to provide the state with resources to accelerate land sales. If the book value of the permanent fund is less the $7 billion, the Trust Land Management Fund will receive up to 5% of the deposits into the Permanent Fund averaged over the past 5 fiscal years. If the book value of the Permanent Fund is more than $5 billion, the Trust Land Management Fund will receive up to 8% of expendable earnings derived from rentals, interest on installment sales, and permanent fund interest earnings. When the book value is between $5 billion and $7 billion, the Trust Land Management Fund, could receive monies from both the Permanent Fund deposits and expendable earnings. Monies deposited in the Trust Land Management Fund are subject to legislative appropriation.

At the end of FY 2005, the Permanent Fund had a market value of $1.7 billion. Therefore, the Trust Land Management Fund would initially receive up to 5% of the average deposits made to the Permanent Fund during the past 5 fiscal years. Since the average deposits during the past 5 fiscal years were about $124.8 million, the Trust Land Management Fund could have received a maximum of approximately $6 million in funding which would otherwise have gone to the Permanent Fund.

As this provision diverts monies that would otherwise be deposited in the trust, it decreases overall revenues in the short term. Additional resources, however, would allow the state to bring parcels to sale more quickly, which would accelerate Permanent Fund revenues. Land is an asset, however, that appreciates. By holding lands for a longer time there is greater potential for higher land sales. If the land is sold earlier, the ultimate impact will depend on the rate of investment returns of the Permanent Fund versus a later sale with a higher land price.

Board of Trustees

The proposition establishes a 7 member Board of Trustees responsible for overseeing state trust land. The proposition permits expenses for the board to be paid from the Trust Land Management Fund. It also allows the legislature to appropriate other state monies. A provision allows the Board of Trustees the exclusive authority to determine the highest and best bid for the land. If the Board of Trustees defines the highest and best bid differently from today (the highest bid for the use that brings the most revenue), revenues from state trust land sales could decrease. If the board does not change the current definition, there would be no impact on revenues.

Local Government Impact

The fiscal impact on local governments cannot be determined with certainty due to the complexity that exists between state trust land and local governments. When state trust land is sold and developed for commercial purposes, the new land owners become responsible for paying property taxes, in that jurisdiction. Also, a variety of other economic activity is associated with converting undeveloped land into developed land. If land is conveyed for conservation purposes, local governments can experience foregone revenue from the lack of property tax on the land and the lack of other economic development associated with developing land.

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