Oklahoma State Senate

Legislative Brief

August 2002

Reimbursement to School Districts, Counties and Other Property Tax Recipients for Property Tax Exemptions Granted by the Legislature

Overview

The Legislature has provided various types of property tax relief in recent years, including a constitutional amendment to allow a five-year exemption for new or expanded manufacturing facilities which was approved by the people in 1985. All forms of property tax relief, while providing a benefit to taxpayers, reduce the amount of revenue which would otherwise be received by school districts, counties, and other entities which levy property taxes.

After approval of the five-year exemption for manufacturing facilities, the Legislature created a fund to reimburse school districts, counties and other entities for revenue lost as a result of the granting of these exemptions. One percent of income tax revenues has been apportioned to the fund, which to date has been sufficient to fully repay revenue losses for both manufacturers' exemptions and double homestead exemptions. However, the Oklahoma Tax Commission has projected that revenues accruing to the fund will not be sufficient for these purposes beginning in 2003.

Background

In 1983, the Oklahoma Supreme Court ruled that a tax abatement agreement between the General Motors Corporation and the State of Oklahoma, which purported to provide a property tax exemption on a GMC assembly plant for twenty years, was void "because no public official or public agency could constitutionally grant the tax exemption allegedly contained in the agreement."[1] In 1985, the Legislature referred a constitutional amendment for a vote of the people to allow a five-year property tax exemption for new, expanded or acquired manufacturing facilities[2]. The term "manufacturing facilities" was to be defined by the Legislature.[3] The Legislature was further given the duties of enacting laws to carry out the provisions of the amendment and to provide for reimbursement to common schools, county governments, cities and towns, emergency medical services districts, vocational-technical schools, junior colleges, county health departments and libraries for revenues lost due to the granting of such exemptions.

Ad Valorem Reimbursement Fund

To fund such reimbursements, in 1985 the Legislature directed that one percent of income tax revenues be deposited to a newly-created "Ad Valorem Reimbursement Fund."[4] During the 1990s, deposits to

[1] *General Motors Corporation v. Oklahoma County Board of Equalization*, 1983 OK 59, 678 P.2d. 233.
[2] Codified as Section 6B of Article X of the Oklahoma Constitution.
[3] Codified as Section 2902 of Title 68 of the Oklahoma Statutes.
[4] Codified as Section 193 of Title 62 of the Oklahoma Statutes.

the Fund consistently exceeded the amounts claimed, and the Legislature routinely transferred the excess balances to the General Revenue Fund to meet other state funding needs. In 1998, the Legislature consolidated this Fund and the Fund for Reimbursement of Counties, and revenues deposited to the Ad Valorem Reimbursement Fund were also used to repay property tax recipients for additional homestead exemptions granted.[5] (Prior to the consolidation of these funds, the Fund for Reimbursement of Counties received legislative appropriations or other monies as directed by the Legislature to make repayments for double homestead exemptions granted.) In 2000, the Legislature provided for an exemption for agricultural buffer strips, which was also to be repaid from the Fund. By statute, if monies in the Fund are insufficient to make all such payments, payments for manufacturers' exemptions will receive priority.

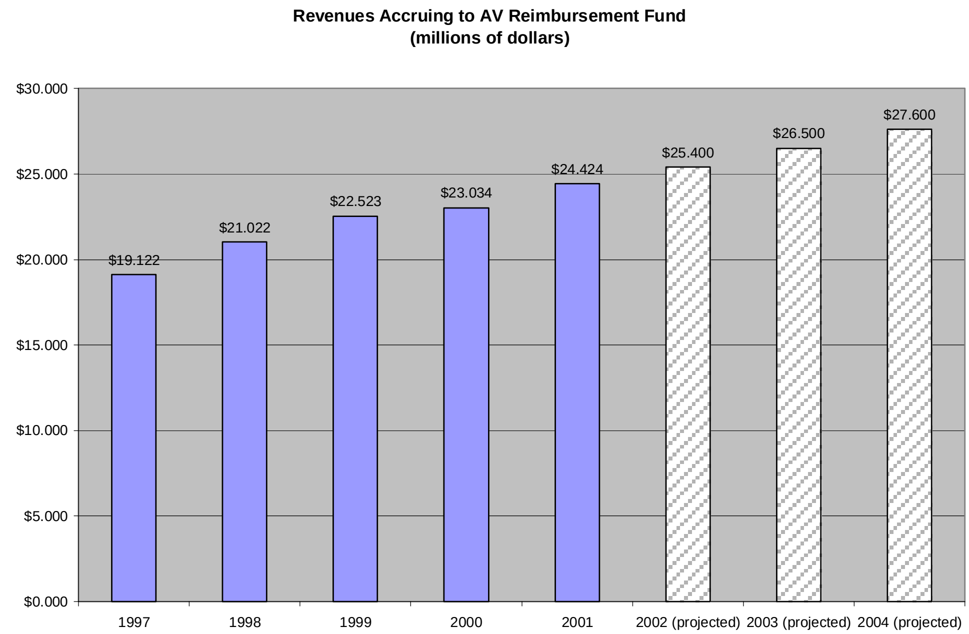
Qualifications for Manufacturers' Exemptions

The Legislature has also frequently changed the definition of the term "manufacturing facilities". In addition to establishments traditionally considered as manufacturing plants, the definition now includes aircraft repair facilities, certain facilities engaged in computer services and data processing, and distribution or warehousing facilities. In 1993, the definition was restricted to require that new jobs be created and that full-time-equivalent employees of a qualified manufacturing facility be offered a basic health benefits plan. In 2000, the requirement for new employment was waived for facilities meeting certain investment and employment retention thresholds (including the General Motors plant which was the subject of the 1983 lawsuit), and leased employees were permitted to be included in the calculation of new employment levels. Although the definition of "manufacturing facilities" was not changed specifically to include electrical generation facilities, several such facilities have qualified to receive the exemption beginning in 2003.

Projected Revenue Shortfall

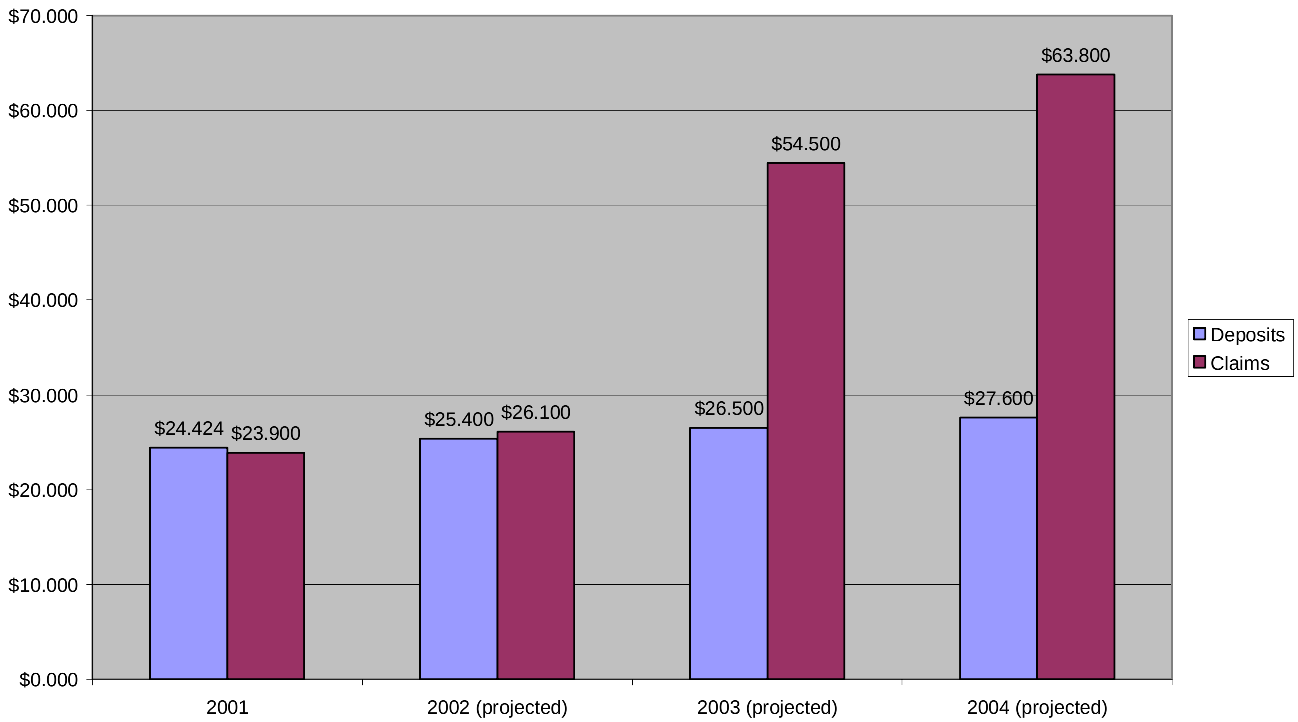
The following chart shows the revenues accruing and projected to accrue to the Ad Valorem Reimbursement Fund (based on its current funding source of one percent of income tax revenues) for 1997 through 2004:

[5] Section 2890 of Title 68 of the Oklahoma Statutes allows an additional homestead exemption of $1,000 of the assessed valuation of homestead property of heads of households whose gross income for the preceding year is less than $20,000.



As previously mentioned, in the 1990s, the deposits to the Ad Valorem Reimbursement Fund consistently exceeded the amounts claimed by school districts, counties and other property tax recipients, and the excess revenues were transferred to the General Revenue Fund. However, beginning in 2003, claims are projected by the Ad Valorem Division of the Oklahoma Tax Commission to exceed deposits as follows:

Projected Revenues and Deposits to the Ad Valorem Reimbursement Fund (millions of dollars)



<u>2003 and 2004 Shortfalls</u>

As can be seen from the above chart, claims are projected to exceed deposits by approximately $28 million in 2003 and by $36.2 million in 2004. The large increase in the amount of claims is due primarily to new exemptions granted that are projected to begin in 2003, including exemptions granted to the General Motors plant ($10.7 million), the Kimberly-Clark plant ($4.6 million) and several electrical generation plants ($11.7 million). Absent these new exemptions, the projected shortfall for 2003 would be approximately $1 million. The double homestead exemptions account for $5.5 million of the projected claims in 2003 and $5.8 million in 2004.

<u>Options for the Legislature</u>

It is anticipated that the Legislature will address the issue of funding the reimbursements to schools, counties and other property tax recipients in the 2003 session. Section 6B of Article X of the Oklahoma Constitution, which provided for the five-year manufacturers' exemptions, states that:

> The Legislature shall enact laws to carry out the provisions of this section and to provide for the reimbursement to common schools, county governments, cities and towns, emergency medical services districts, vocational-technical schools, junior colleges, county health departments and libraries for revenues lost to such entities as a result of the exemption provided by this section.

No similar constitutional requirement exists with respect to funding for double homestead exemptions or exemptions for buffer strips, the other exemptions funded through the Ad Valorem Reimbursement Fund.

Options available to the Legislature to fulfill this constitutional responsibility could include:

- Providing funding to the Ad Valorem Reimbursement Fund from an additional source, either year-by-year as needed or on a permanent basis. Based upon the projections of the Oklahoma Tax Commission, the Fund would require an additional $28 million in 2003, $36.2 million in 2004 and additional amounts in at least the following three years;
- Providing funding only to the extent necessary to fund reimbursements for five-year manufacturers' exemptions. Based upon the projections of the Tax Commission, the Fund would require an additional $22 million ($28 million less $5.5 million in additional homestead exemptions) for 2003 and $30.4 million ($36.2 million less $5.8 million) for 2004; and
- Limiting the number and/or types of manufacturing facilities qualifying for the tax exemption by statutorily changing the definition of "manufacturing facility". Although this could potentially reduce the number and/or amount of claims in future years, any manufacturing facility currently qualifying continues to be eligible for the exemption even if the definition of "manufacturing facility" is subsequently changed.

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