



**CITY OF GLENDALE**

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Intergovernmental Programs Department

# 2008 End of Session Report

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## Session Summary

The 48<sup>th</sup> Legislature, 2<sup>nd</sup> Regular Session concluded *Sine Die* on Friday, June 27, 2008 after 166 days. Legislators introduced 1542 bills, memorials, and resolutions and sent 347 bills to the Governor. Of these, 315 have become law and 32 have been vetoed. The new laws will become effective 90 days after adjournment, or on Friday, September 26, 2008, unless the bill contained an otherwise specified effect date.

Dominating discussions this year was the issue of achieving a balanced budget in the face of a \$2 billion deficit. In fact, declining revenues forced legislators to negotiated two budgets this year – a revised Fiscal Year 2008 budget and a Fiscal Year 2009 budget. A balanced budget was achieved through a series of state agency cuts, capital bonding, payment rollovers, and fund sweeps in both fiscal years. Some of the funds that were swept will directly impact cities, but we were successful in preventing lawmakers from sweeping urban revenue sharing funds. For a more detailed discussion on the budget please refer to the section titled State Budget found on page 5 of this document.

Several bills were introduced this year that would have directly impacted cities' ability to promote economic development, some negatively and some positively. Several of these bills would have eliminated, or at least severely limited, our ability to attract major employers to locate in our city, while other legislation would have given cities an additional tool to promote redevelopment in our downtown areas. Nevertheless, all of these efforts failed towards the end of the session, so they are likely to resurface going into next session.

The successes of this session should be measured equally in the successful passage of bills signed by the Governor and in the defeat of numerous bills detrimental to cities and towns. This report contains a summary of the bills that relate to the City of Glendale's municipal operations. Please direct any questions to the Intergovernmental Programs Department at (623) 930-2813.

# Glendale's 2008 Municipal Legislative Principles

## **FISCAL SUSTAINABILITY**

### **Preservation of State Shared Revenue**

The city supports the retention of state shared sales and income tax revenues at the 15% distribution level and opposes any reduction or cap in state shared revenues, either directly or through the creation of exemptions, unless equal revenue sources are made available.

### **Maintaining Revenue Streams/Directed Funding Sources**

The city supports the full disbursement levels of existing revenue streams including the Heritage Fund, the Highway User Revenue Fund (HURF), the Vehicle License Tax (VLT), the Maricopa County half-cent sales tax for transportation and the Local Transportation Assistance Funds (LTAF). The city opposes diversions of these funds by the Legislature.

### **Preservation of Local Taxing Authority**

The city supports the retention of local taxing authority and the maintenance of fiscally balanced revenue sources. The city opposes legislation that will shift a greater tax burden to homeowners as a consequence of restructuring property tax assessment ratios. Furthermore, the city supports the efforts of the Municipal Tax Code Commission to make tax collection more efficient.

### **Unfunded Mandates**

The city opposes unfunded state mandates placed on local jurisdictions, and encourages the legislature to evaluate the fiscal impact such mandates will have on communities prior to considering the issue.

## **ECONOMIC DEVELOPMENT**

The city opposes any attempt to limit local control over, or ability to execute economic development projects, and supports any effort to enhance the range of economic development mechanisms at a municipality's disposal.

## **LAND USE PLANNING**

The city supports maintaining local authority in land use planning issues and supports legislative efforts that promotes more orderly growth and opposes efforts that impede growth management, including the preservation of local authority to set land use policies and support for citizen involvement in the planning and zoning process. Furthermore, the city opposes legislation that would restrict a municipality's ability to redevelop under-performing areas.

## **MILITARY PRESERVATION**

The city recognizes the importance of preserving the mission viability of Luke Air Force Base and the importance of the base to our national security interests, state and local economies, and to the retirees who rely on Luke for services. The city supports the retention of existing state statutes relating to military airports, and the development of legislation that limits encroachment of all types, supports compatible land uses around such facilities, and ensures the capability for future mission expansions.

## **NEIGHBORHOODS**

The city supports initiatives to preserve and enhance the quality of life in neighborhoods and protect the rights of citizens to actively engage in the development of public policy.

## **PUBLIC SAFETY**

The city supports initiatives to preserve and enhance the ability of local governments to strategically plan for and respond to emergencies.

## **TRANSPORTATION**

The city supports regional coordination in transportation planning but opposes efforts that limit local control in the transportation decision-making process. The city supports the voter approved Proposition 400 and opposes efforts to hinder the implementation of the Regional Transportation Plan. Furthermore, the council supports efforts that grant cities and towns the additional ability to provide for transportation improvements.

## **WATER/ENVIRONMENTAL RESOURCES**

The city supports efforts that ensure the wise use of natural resources and promotes environmentally sensitive and sustainable development.

# Legislation of Interest to Glendale

## State Budget

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Balancing the state budget this year proved to be much more challenging this year than in years past. Significant deficits forced lawmakers to rebalance the enacted Fiscal Year (FY) 2008 budget before they could begin to work on balancing a FY 2009 budget. Since spending outpaced revenues by \$1.4 billion in FY 2008 and \$2 billion in FY 2009 lawmakers were forced to cut programs, borrow money for capital construction, sweep miscellaneous funds, rollover K-12 payments to the next fiscal year, and employ various other strategies to achieve their constitutional mandate of passing a balanced budget. Nevertheless, the FY 2009 General Fund spends \$9.90 billion, a decrease of (2.4%) below the revised FY 2008 budget. Provisions of the state budget relative to municipal interests are outlined below.

### Taxes

Given declining state revenues the FY 2009 budget does not provide for many changes in tax law. However, as session law, this budget increases the Research & Development tax credit from 20% of the first \$2.5 million in qualifying expenses plus 11% of the amount exceeding \$2.5 million, to 22% and 13% respectively for Calendar Year (CY) 2010. As permanent law, the percentages increase to 24% and 15% respectively beginning in CY 2011. These increases have an effective date beginning in CY 2010, and would extend for 8 years, reverting back to the current credit amounts beginning in CY 2018.

### Shared Revenues

In 2006 the legislature appropriated approximately \$717 million to the Urban Revenue Sharing (URS) fund for FY 2009, in an effort to offset the impact of a 5% personal income tax cut. Also in 2006, the legislature further appropriated an additional \$10.5 million to the URS fund in FY 2009. This figure represents the amount lost to cities during the recent two-year period in which the percent distribution was reduced from 15% to 14.8%. As a result, the total appropriation to the URS in 2009 amounts to approximately \$727.5 million. Throughout the session there was great concern that lawmakers would reduce that distribution of URS dollars to municipalities, but the FY 2009 budget signed by the Governor maintained those funding figures. A permanent law change that should also be noted is a new stipulation that counts municipalities with a population of less than 1500 as having 1500 persons for the purpose of URS distributions. As these municipalities were not previously eligible for URS distributions the expected distributions to all other municipalities is anticipated to be reduced by approximately 0.1%.

Unlike the URS fund, another source of shared revenues, the Highway User Revenue Fund, has been reduced in order to partially fund the Department of Public Safety (DPS). Of the total \$106 million HURF/ State Highway Fund shift to DPS, municipalities are expected to lose approximately \$23 million.

Finally, there is a provision of the budget that requires municipalities and counties to contribute a total of \$29.7 million to the state General Fund. The logistics of this contribution not very clear, but the Joint Legislative Budget Committee is directed to calculate each city's contribution according to the HURF formula set by statute. The estimated impact to cities and towns is \$17 million.

### **Photo Radar**

The FY 2009 budget establishes, as permanent law, a statewide photo radar system to enforce vehicle speed laws throughout the state. Fines received under this program must not exceed \$165 and points against a driver's license will not be issued for citations. Revenues for this program will first be used to by the Department of Public Safety, the Department of Administration, and the Administrative Office of the Courts to offset the cost of the program. Any remaining funds are required to be deposited in the state General Fund.

The Governor signed the budget into law on June 27, 2008.

## Fiscal Sustainability

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### *New Laws*

#### **HB 2191 (Chapter 178, Laws 2008) PROPERTY CLASSIFICATION; BED & BREAKFAST**

For property tax purposes, the maximum number of sleeping rooms that a bed-and-breakfast establishment may have to keep a Class Four property tax classification is increased to six from four. HB 2191, sponsored by Representative Crandall, was signed into law by the Governor on May 12, 2008.

#### **HB 2330 (Chapter 252, Laws 2008) PROPERTY TAX EXEMPTION; CHARTER SCHOOLS**

This bill exempts property and buildings owned by a nonprofit organization that operates as a charter school from taxation if the property is used for education and are not used or held for profit. The nonprofit organization must file evidence of tax exempt status with the county assessor. HB 2330, sponsored by Representative Mason, was signed into law by the Governor on June 6, 2008.

#### **SB 1340 (Chapter 194, Laws 2008) TAX EXEMPTION; INTERNET APPLICATIONS**

This bill expands the list of items that are exempt from sales tax and use tax to include the purchase by schools (charter or district), community colleges or state universities of application services that promote curriculum design or are used to assess student learning. Likewise Internet-based learning applications are exempt from the telecommunications tax and from taxes associated with the rental of personal property. This bill is retroactive to Jan 1, 2000 and claims for refunds must be submitted by Dec 31, 2008. The total statewide amount of refunds is capped at \$10,000, including interest. SB 1340, sponsored by President Bee, was signed by the Governor on May 12, 2008.

### *Bills that Failed*

#### **HB 2050 PROPERTY TAX; VALUATION INCREASE LIMITATION**

Under this bill, for property tax calculations, the limited property value of property would increase 3% per year (previously, the annual increase in limited value was the greater of either 10% of the previous year's limited value or 25% of the difference between the property's current full cash value and the preceding year's limited value). HB 2050, sponsored by Representative McClure failed to receive a hearing in the House Committee on Ways and Means.

#### **HB 2220 STATE EQUALIZATION PROPERTY TAX REPEAL**

This bill would have permanently repealed the state equalization assistance property tax. HB 2220, Sponsored by House Speaker Weiers, was vetoed by the Governor on April 16, 2008.

**HB 2452 MUNICIPAL DEVELOPMENT FEES; ASSESSMENT**

This bill would have prohibited municipalities from assessing any newly adopted development fees against property for the first 18 months after the property is subdivided. HB 2452, sponsored by Representative Paton, failed to receive a hearing in the House Committee on Counties, Municipalities & Military Affairs.

**HB 2479 GOVERNMENTAL SWAP AGREEMENTS; CONDITIONS**

This bill would have changed the minimum population requirement to 50,000 people for a governmental entity to be permitted to enter into swap agreements. Swap agreements allow a government entity and a financial institution to cooperatively manage interest rate risk, investment risk or commodity prices. This bill also would have imposed the following additional requirements: before a government may enter into a swap agreement with a financial institution, the government must establish a formal swap agreement policy, it must receive a statement from the financial institution disclosing pricing and terms, and it must engage an advisor who has at least five years of expertise in reviewing swap agreements to determine whether the specific agreement complies with the policy and is in the best interests of the government entity. HB 2479, sponsored by Representative Adams, failed to be calendared for a final read vote in the Senate.

**HB 2585 GENERAL OBLIGATION BOND REQUIREMENTS**

This bill would have made various changes in the public notice required when a political subdivision intended to issue bonds. Information contained in the publicity pamphlet prepared for the bond election would have been changed to require that the estimated tax impact of debt service on a representative parcel of Class 1 (commercial) and Class 3 (owner-occupied residence) property to be based on projections assuming an annual appreciation of property value equal to 50% of the estimated annual increase in secondary value of the property. The pamphlet would have also included notification if the proposed bond would, when combined with the jurisdiction's current outstanding debt, exceed the entity's constitutional debt limit if all such debt were to be issued at the same time. Issuing bonds to re-finance debt that has already been approved by voters would have required re-approval by voters if the average maturity of the re-funding bonds was less than 75% of the weighted average maturity of the bonds being re-funded. HB 2585, sponsored by Representative Yarbrough, was vetoed by the Governor on May 20, 2008.

**HB 2586 SPECIAL DISTRICTS; SECONDARY LEVY LIMITS**

Under this bill aggregate maximums for the secondary property tax levy of certain special district (including, fire district, flood control district and jail district) would have been established for tax year 2008 and each year thereafter, using a formula based on the previous year's levy amount. Districts may ask the voters to authorize a secondary property tax levy that exceeds the aggregate maximum, subject to specified limitations. The Property Tax Oversight Commission is required to review the secondary property tax levy of certain special taxing districts to determine violations of levy limits. Districts may appeal the Commission's finding. HB 2586, sponsored by Representative Yarbrough, failed to pass the House.

**HB 2641 URBAN REVENUE SHARING; INCOME TAX CREDIT**

This bill would have allowed residents who live outside the boundaries of any incorporated city or town to take a credit against their income tax in an amount equal to 15% of their liability after all other credits have been applied. Beginning in fiscal year 2008-09, the Urban Revenue Sharing Fund is reduced by the total amount claimed by rural taxpayers using this credit. HB 2641, sponsored by Representative Murphy, failed to receive a hearing in the House Committee on Rules.

**HCR 2003 PROPERTY TAX; LIMIT VALUATION INCREASES**

This resolution would have placed the question of whether to amend the constitution to limit the annual increase in real property values for tax purposes to 3% on the 2008 general election ballot. HCR 2003, sponsored by Representative McClure, failed to receive a hearing in the House Committee on Ways & Means.

**HCR 2072 STATE EQUALIZATION PROPERTY TAX; REPEAL**

This resolution would have placed the question of whether to amend statutes to repeal the state equalization assistance property tax. Both the state and counties are prohibited from levying an equalization assistance property tax. HCR 2072, sponsored by Representative Crump, failed to receive a hearing in the Senate Committee on Rules.

**SB 1138 SCHOOLS; LOCAL DEVELOPMENT FEES; EXCLUSION**

This bill would have prohibited a municipality or county from assessing development fees for any costs associated with school district or charter school construction or appurtenances, including streets and water and sewer utility functions. SB 1138, sponsored by Senator Burns, failed to receive a hearing in the Senate Committee on Government.

**SB 1157 INTERNET SALES TAX; PROHIBITION**

This bill would have prohibited the collection of certain state and local taxes on sales conducted over the internet if the vendor does not have a nexus in the state. SB 1157, sponsored by Senator C. Gray, failed to receive a hearing in the Senate Committee on Finance.

**SB 1254 URBAN REVENUE SHARING; TAX CREDIT**

This bill would have allowed residents who live outside the boundaries of any incorporated city or town to take a credit against their income tax in an amount equal to 15% of their liability after all other credits have been applied. Beginning in fiscal year 2008-09, the Urban Revenue Sharing Fund would be reduced by the total amount claimed by rural taxpayers using this credit. SB 1254, sponsored by Senator Burns, failed to receive a hearing in the Senate Committee on Rules.

**SB 1260 MUNICIPAL ELECTIONS; TAX ISSUES, TAX INCENTIVES**

This bill would have required that municipal elections on tax issues, including issues related to tax incentives, take place: in even-numbered years on the same day as the general election; in

odd-numbered years on the ninth Tuesday before the first Tuesday after the first Monday in November. SB 1260, sponsored by Senator Chevront, failed to pass the House Committee on Ways & Means.

### **SB 1406 MUNICIPAL DEVELOPMENT FEES**

This bill would have required that new municipal development fees or increased development fees are not to be assessed against a development for 24 months after the municipality gives final approval as long as no "material changes" are made to the site plan or subdivision plat. Municipal development fees must be assessed for the benefit of the same area within which the fee was assessed. Counties would have been prohibited from assessing development fees from a school district or charter school, other than fees assessed for streets, water, and sewer utility functions. SB 1406, sponsored by President Bee, was vetoed by the Governor on July 7, 2008

### **SCR 1003 PROPERTY TAX LIMITS; VALUE INCREASES**

This resolution would have placed a question on the 2008 general election ballot of whether to amend Article IX of the state constitution to limit the maximum aggregate amounts of all state and local property taxes to 0.5% of the value on residential property (owner-occupied, rental property and mobile homes), and to 1% of the value on any other real property. Beginning in tax year 2009, the baseline full cash value of real property is the valuation on the 2003 tax bill or, if the property was not on the tax roll in 2003, on the actual purchase price. After 2009, the full cash value of real property cannot increase more than 2% over the previous year. For residents 65 or older whose income is less than 400% of the federal supplemental security income benefit rate (or 500% if the property is owned by two people), a "property valuation protection option" is created which fixes the full cash value of the property at the amount in effect during the year the option is approved by the county assessor. SCR 1003, sponsored by Senator Harper, failed to receive a hearing in the Senate Committee on Finance.

### **SCR 1018 PROPERTY TAX; VALUATION; INFLATION LIMITATION**

This resolution would have placed a question on the 2008 general election ballot of whether to amend the state Constitution to require that the annual change in property values for property tax purposes be equal to the change in the GDP price deflator from the previous year. SCR 1018, sponsored by Senator Huppenthal, failed to receive a hearing in the Senate Committee on Finance.

### **SCR 1025 PROPERTY TAX; VALUATION INCREASE LIMIT**

This resolution would have placed a question on the 2008 general election ballot of whether to amend the state Constitution to limit the annual increase in property values (for property tax purposes) to 2%. SCR 1025, sponsored by Senator Gould, failed to receive a hearing in the Senate Committee on Finance.

## Economic Development

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### *New Laws*

#### **HB 2638 (Chapter 151, Laws 2008) MUNICIPAL TAX INCENTIVE PENALTY; APPLICATION**

This bill clarifies that the penalty imposed on a municipality that offers a tax incentive to a business for locating a retail business in the municipality applies to any city or town that has 65% of its land area located within the Phoenix metro area. Formerly, this prohibition only applied to municipalities entirely located within the Phoenix metro area. HB 2638, sponsored by Representative Murphy, was signed by the Governor on May 1, 2008.

#### **SB 1450 (Chapter 297, Laws 2008) REGIONAL ATTRACTION DISTRICTS**

This bill allows owners of at least 200 acres of land in Pinal County to petition the governing council of the city in which the land is located to form a regional attraction district for the purposes of constructing a themed amusement park. Petitioners must submit a \$50,000 refundable bond with the petition. The district is a corporate and political body with all the rights, powers and immunities of a municipal corporation. The district is governed by a 5-person board of directors: 2 are members of the city council, and one each appointed by the Governor, House Speaker and Senate President. Before being allowed to issue up to \$750 million in bonds to finance construction, the district must secure "legally enforceable financial participation commitments" from the private sector for at least \$100 million. The bonds are to be repaid from the district's revenue sources. The district terminates and must liquidate its assets 40 years after issuance of bonds. The district is exempt from property taxation on land and improvements within the district, although language states the district board "may" provide for voluntary tax payments. The district is authorized to levy a 10% excise (sales) tax on all sales within the park, including admission. SB 1450, sponsored by Senator Verschoor, was signed by the Governor on June 27, 2008.

### *Bills that Failed*

#### **HB 2598 ECONOMIC RECAPTURE DISTRICTS; CAPITOL RESTORATION**

This bill would have allowed counties, municipalities, and the Board of Regents to establish an Economic Recapture District (ERD) for the purpose of making expenditures for facilities for tourism, entertainment, conventions, public safety, streets, utilities, and parks. An ERD is a special taxing district that may issue bonds and must be formed by election. For sales tax paid within an ERD, 15% of net new sales tax from the municipal and state shared revenue base amount is paid monthly to the newly established State Capitol Restoration Trust Fund to be used for restoring, renovating, and maintaining the state capitol building, and 85% is paid to the ERD. The State Capitol and Economic Recapture Oversight Commission is established to review capital infrastructure improvement plans for the restoration and improvement of the state capitol building. HB 2598, sponsored by Representative Adams, failed to receive a hearing in the House Committee on Appropriations.

#### **HB 2803 GOVT PROPERTY LEASE EXCISE TAX; MILITARY USE ZONES**

This bill would have prohibited a governmental entity from leasing its land for private commercial purposes without first notifying the jurisdiction within whose boundaries the land

exists and determining through an independent third-party study that the value to the local government exceeds the benefit in lower taxes experienced by the private sector lessee. The governing board of the local jurisdiction must approve the lease by a simple majority, without use of a consent calendar. HB 2803, sponsored by Representative Nelson, failed to pass Senate Committee of the Whole.

### **SB 1027 MUNICIPAL TAX INCENTIVES**

This bill would have penalized a municipality that provides a tax incentive to a retail business to locate within its borders by having its share of sales tax revenue reduced by the amount of the incentive. Withheld amounts shall be credited to the state general fund. The withheld amount shall not include monies which the municipality certifies it needs to make required deposits or debt service payments. SB 1027, sponsored by Senator Tibshraeny, failed to receive a hearing in the House Committee on Transportation.

### **SB 1360 GOVERNMENT PROPERTY TAX LEASE REFORM**

This bill would have replaced the current Government Property Lease Excise Tax (GPLET) rate and rate phase-out with standard rates prescribed by the Department of Revenue. It also expands eligibility for GPLET status and requires each county treasurer to collect GPLET. SB 1360, sponsored by Senator Chevront, failed to pass Senate Committee of the Whole.

## Land Use Planning

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### *New Laws*

#### **HB 2113 (Chapter 95, Laws 2008) MUNICIPAL ANNEXATION; FINALITY**

This bill stipulates that after a municipal annexation becomes final, the clerk of the city or town must provide a copy of the adopted annexation ordinance to the clerk of the board of supervisors of each county that has jurisdiction over the annexed area. HB 2113, sponsored by Representative McClure, was signed by the Governor on April 28, 2008.

#### **HB 2155 (Chapter 145, Laws 2008) TRANSFER OF DEVELOPMENT RIGHTS**

This bill states that before a municipality may transfer development rights to or from another jurisdiction, a municipality must adopt an ordinance stating its right to do so. If the sending jurisdiction is a county, the board of supervisors of that county must first authorize the transfer of development rights from unincorporated areas of a county to a municipality via an intergovernmental agreement. This bill also makes permanent the authority to transfer development rights, which was due to expire on Dec 31, 2009. HB 2155, sponsored by Representative Paton, was signed by the Governor on May 1, 2008.

#### **SB 1385 (Chapter 72, Laws 2008) MUNICIPAL PLANS; NEIGHBORHOOD ELEMENT**

Under this bill the neighborhood preservation and revitalization element that is included in a general municipal plan for cities of 50,000 person or more would have been elevated in status to its own section (previously, it was included as part of a section on conservation, rehabilitation and redevelopment). The section would have been expanded to include data on home ownership and information on city programs to improve the appearance of neighborhoods that promote maintenance of both commercial and residential buildings and that impact the safety of neighborhoods. SB 1385, sponsored by Senator Tibshraeny, was signed by the Governor on April 22, 2008.

### *Bills that Failed*

#### **HB 2697 BODY ART ESTABLISHMENTS; LICENSURE**

This bill would have established regulations for body art establishments and operators, including prohibiting a person from operating a body art establishment without a license, prohibiting performing body art on a person under 18 years old without written consent and the presence of the child's parent or guardian, and prohibiting using a needle to tattoo or pierce the body of another person more than once and using a needle that is not sterilized with accepted equipment. HB 2697, sponsored by Representative Schapira, failed to receive a hearing in the House Committee on Health.

#### **HCR 2008 EMINENT DOMAIN; SLUM CLEARANCE; REPEAL**

This resolution would have placed a question on the 2008 general election ballot of whether to amend statutes to repeal the Private Property Rights Protection Act (A.R.S. 12-1131 et. seq.). The act, approved by voters in 2006 as Prop 207, required that if a government takes private property through eminent domain, it may do so only for a "public use," which is defined as use

by a government or by utilities or to eliminate a threat to public health or safety. The definition specifically excludes economic development purposes. HCR 2008, sponsored by Representative Ableser, failed to receive a hearing in the House Committee on Homeland Security & Property Rights.

### **SB 1321 BODY ART ESTABLISHMENTS; LICENSURE**

This bill would have required body art establishments to be licensed by January 1, 2010. It also would have established regulations for body art establishments and operators, including prohibiting a person from operating a body art establishment without a license, prohibiting performing body art on a person under 18 years old without written consent and the presence of the child's parent or guardian, and prohibiting using a needle to tattoo or pierce the body of another person more than once and using a needle that is not sterilized with accepted equipment. SB 1321, sponsored by Senator Burton Cahill, failed to receive a hearing in the Senate Committee on Commerce & Economic Development.

### **SB 1404 WATER RESOURCES; REGIONAL PLANNING**

This bill would have required that the general plans of municipalities include findings and recommendations relating to regional coordination with other local governments in the same groundwater basin. The provisions of this bill would have applied to municipalities with a population of at least 10,000 persons and that are located both outside an active management area and in a county that is statutorily required to plan for water resources. The information that must be contained in county comprehensive plans relating to water resources is expanded. Governing bodies of municipalities and counties must amend the general plan or comprehensive plan to meet these requirements by December 31, 2010. SB 1404, sponsored by Representative O'Halleran, failed to receive a hearing in the Senate Committee on Natural Resources and Rural Affairs.

## Military Preservation

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### *New Laws*

#### **HB 2194 (Chapter 300, Laws 2008) MILITARY FACILITIES; RESERVATIONS; SECURITY**

Under this bill, employees of the Department of Emergency and Military Affairs must have a valid fingerprint clearance card, with the exception of National Guard members with security clearance. Current employees must apply for a card within 60 days after this act becomes effective. The list of powers of the adjutant general is expanded to include adopting security methods for the National Guard, with the approval of the Governor. It is a class 6 felony to knowingly trespass unlawfully in or on a military reservation or facility. HB 2194, sponsored by Representative Nelson, was signed by the Governor on July 7, 2008

### *Bills that Failed*

#### **HB 2652 HOMELAND SECURITY COUNCIL; COORDINATING; ADVISORY**

This bill would have eliminated the Department of Homeland Security Coordinating Council. It would have also reduced the number of members in the homeland security regional advisory councils to 9 from 12 and beginning July 1, 2008, the term of council members was to be extended to three years from two. Under this bill, certain members who are elected officials (a county sheriff, a mayor and a county supervisor) may appoint a designee to serve on the council. This bill would have allowed the Governor to remove a member of the council for cause. Finally, under this bill the terms of certain current members of the regional councils would not have expired until December 26, 2009. HB 2652, sponsored by Representative Brown, failed to pass the Senate Committee of the Whole.

#### **SB 1379 MILITARY INSTALLATION FUND; LANDS ACQUIRED**

This bill would have required the Department of Veterans' Services to transfer any real estate, property rights and related infrastructure to the State Land Department to manage. It would have also expanded the powers and duties of the State Land Department to allow the Department to accept title to and manage real estate, property rights and related infrastructure acquired from the Department of Veteran Services' for preserving or enhancing military installations in this state. SB 1379, sponsored by Senator Arzberger, failed to receive a hearing in the Senate Committee on Government.

## Neighborhoods

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### *New Laws*

#### **HB 2066 (Chapter 5, Laws 2008) SIGN WALKERS; MUNICIPAL REGULATION**

This bill requires municipalities to allow posting, display and use of sign walkers (defined as a person who wags, holds or balances a sign). However, the bill also allows municipalities to adopt reasonable time, place and manner regulations relating to sign walkers. HB 2066, sponsored by Representative Robson, was signed by the Governor on March 25, 2008.

#### **HB 2093 (Chapter 143, Laws 2008) SCHOOL CROSSINGS**

This bill clarifies that only if the messages on the portable signs placed at a school crosswalk includes the phrase "civil penalty will double" can a court impose the doubled civil penalty for a violation. The provisions of this bill become effective January 1, 2009. HB 2093, sponsored by Representative Biggs, was signed by the Governor on May 1, 2008.

#### **HB 2440 (Chapter 238, Laws 2008) HOA, CONDOS; POLITICAL PETITIONS**

This bill stipulates that a condo or HOA cannot prohibit but may reasonably regulate the circulation of political petitions on property dedicated to the public within the association. A gated community (one that restricts vehicular or pedestrian access) is not required to comply. Nothing in this act requires a condo or HOA to make its common areas available for the circulation of political petitions to anyone who is not an owner or resident of the community. HB 2440, sponsored by Representative Nichols, was signed by the Governor on May 23, 2008.

#### **HB 2483 (Chapter 159, Laws 2008) IGNITION STRENGTH OF CIGARETTES; REGULATION**

This bill stipulates that cigarettes may not be sold in, or to persons located in, Arizona unless they have been tested and meet specified performance standards regarding propensity to start accidental fires. The manufacturer must also file a written certification with the state fire marshal and pay a fee of \$250 per "brand family" of cigarettes for every certification period of three years. This bill also establishes civil penalties for violations of these regulations and it requires the fire marshal to implement these regulations pursuant to the implementation and substance of the New York Fire Safety Standards for Cigarettes and to review the effectiveness of these regulations and report to the Legislature every three years. The Legislature finds that, because these safety standards are of statewide concern, the statute preempts regulation by any political subdivision of the state. Finally, the provisions of this bill are effective August 1, 2009 and they automatically repeal if a federal reduced cigarette ignition propensity standard is enacted. HB 2483, sponsored by Representative McComish, was signed by the Governor on May 6, 2008.

#### **HB 2643 (Chapter 256, Laws 2008) DUI, OUI; RESTAURANT LIQUOR LICENSES**

This bill makes numerous changes in Driving Under the Influence (DUI) and OUI (Operating a Boat Under the Influence) statutes, including making penalties for OUI the same as for DUI. The driver license of a person whose license was suspended or revoked for an alcohol or drug

related offense may be reinstated only after completion of court-ordered alcohol or drug screening. A judge's discretion to reduce jail time for certain first or second offense DUIs is deleted. Additionally, the sunset date of the program whereby the Department of Liquor License and Control may annually approve up to 15 special liquor licenses for restaurants that do not meet the requirement that food sales account for at least 40% of gross revenues is extended five years to June 30, 2013, from June 30, 2008. Finally, the bill adds a provision requiring that 5% of the annual liquor license fee paid by a restaurant whose gross proceeds from non-alcohol related sales do not comply with statutory minimums to be deposited in the DUI Abatement Fund. HB 2643, sponsored by Representative Crandall, was signed by the Governor on June 6, 2008.

### **HB 2726 (Chapter 223, Laws 2008) CONDO STATUTES; APPLICABILITY**

This bill applies statutes pertaining to condominium associations to all condominiums in Arizona without regard to the date the condominium was created. Previously, statutes applied differently to condo associations formed prior to January 1, 1986. The provisions of the bill become effective January 1, 2009. HB 2726, sponsored by Representative Nichols, was signed by the Governor on May 20, 2008.

#### *Bills that Failed*

### **HB 2040 LIQUOR LICENSES; LOCAL RECOMMENDATIONS**

This bill stipulated that if a governing body (city, town or county) disapproves of the issuance or reclassification of a liquor license, the license shall not be granted unless approved by 2/3 vote of the total membership of the liquor board. HB 2040, sponsored by Representative Prezelski, failed to receive a hearing in the House Committee on Counties, Municipalities & Military Affairs.

### **HB 2353 HOAS; DISCLOSURE**

This bill stipulated that the time period in which a condominium unit owners or HOA have to mail or deliver to a purchaser a copy of the bylaws and rules of the HOA, a copy of the declaration and a date statement regarding the HOA is statutorily set at 10 calendar days. HB 2353, sponsored by Representative Nichols, failed to receive a hearing in the House Committee on Rules.

### **HB 2354 PROPERTY VALUATION; COMMON AREAS**

This bill would have expanded the definition of common areas for the purposes of property tax valuation to include commercial, industrial or multiple use property. HB 2354, sponsored by Representative Biggs, failed to receive a hearing in the House Committee on Rules.

### **HB 2471 CIVIL INFRACTIONS; NEIGHBORHOOD PRESERVATION**

This bill would have expanded the list of exemptions from the requirement that governmental units must pay legal costs of a party that prevails in a court action to include actions brought to enforce of local government ordinance relating to public health, safety or welfare. HB 2471, sponsored by Representative Nelson, failed to receive a hearing in the House Committee on Rules.

### **HB 2484 RESTAURANTS; ALTERNATIVE LIQUOR LICENSE**

This bill would have created an alternative liquor license that allows a licensee to sell beer and wine in individual portions for consumption on premises with no provision for take-out of spirituous liquor. The Department of Liquor Licenses and Control is authorized to establish rules under which a licensee who holds a (regular) restaurant license may convert to an alternative restaurant license. HB 2484, sponsored by Speaker Weiers, failed to receive a hearing in the House Committee on Commerce.

### **HB 2695 SPIRITUOUS LIQUOR; MINORS; UNLICENSED GATHERINGS**

This bill would have made it a class 1 misdemeanor for a holder of a retail spirituous liquor licensee or its employees to sell spirituous liquor to a person knowing that person intends to furnish the liquor to a person who is under 21 years old. It also would have made it a class one misdemeanor for a person to permit the use of unlicensed premises for a gathering or an event at which the person knows spirituous liquor may be sold, furnished or given to persons under 21 years old. Finally, the bill declared that it is a class 6 felony for a person to operate a gathering or event that is conducted as a business with an admission fee, membership fee or other similar fee if, at the direction of the operator of the gathering or event, spirituous liquor is provided to a person under 21 years old. HB 2695, sponsored by Representative Kavanagh, failed to receive a hearing in the Senate Committee on Judiciary.

### **SB 1094 LIQUOR NEAR CASH REGISTERS; PROHIBITION**

This bill would have made it unlawful for a retail liquor licensee or an employee of a retail liquor licensee to display containers of spirituous liquor within 30 feet of a cash register where sales are made, unless the containers are completely screened from customer view. SB 1094, sponsored by Senator Garcia, failed to receive a hearing in the Senate Committee on Commerce & Economic Development.

### **SB1452 HOAS; FORECLOSURES; VOTING RIGHTS**

This bill stated that under stipulated conditions, the declarant for a planned community is eligible to vote for only the number of members of the board of directors that constitutes a minority of the total membership of the board. Conditions are: the community originally platted to contain more than 3,000 lots, more than 500 lots have been sold or otherwise conveyed to a person other than the declarant, and the declarant was not the original declarant but acquired title to the lots through compromise and settlement of unpaid property taxes. SB 1452, sponsored by Senator Gould, was vetoed by the Governor on July 7, 2008.

## Neighborhoods – Sex Offender

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### *New Laws*

#### **HB 2129 (Chapter 97, Laws 2008) INTERNET AGE MISREPRESENTATION**

This bill makes it a class 3 felony for a person 18 years old or over to misrepresent his/her age over the Internet to a recipient whom the person knows or has reason to know is a minor for the purpose of committing a sexual offense that would require the person to register as a sex offender. The bill also expands the list of "dangerous crimes against children" to include unlawful age misrepresentation. HB 2129, sponsored by Representative McClure, was signed by the Governor on April 28, 2008.

#### **HB 2480 (Chapter 219, Laws 2008) AGGRAVATED LURING; MINORS; SEXUAL EXPLOITATION**

This bill stipulates that a person commits "aggravated luring a minor for sexual exploitation" if s/he uses an "electronic communication device" to transmit to a person the sender knows, has reason to know or believes is a minor visual material for the purpose of offering or soliciting sexual conduct. Aggravated luring a minor for sexual exploitation is a class 2 felony. The bill also aggravated luring a minor for sexual exploitation to the list of crimes that constitute a dangerous crime against children, and persons convicted must register with local law enforcement as a sexual predator. It is a defense against the charge if the victim is between 15 and 17, the defendant is under 19 (or attending high school) and is no more than 24 months older than the victim, and the conduct is consensual. The electronic device used in the commission of an offense must be forfeited and sold or destroyed upon a person's conviction. HB 2480, sponsored by Representative Adams, was signed by the Governor on May 20, 2008.

#### **SB 1011 (Chapter 6, Laws 2008) SEXUAL PREDATORS; SCHOOLS; RESIDENCY RESTRICTIONS**

Under this bill, the list of persons prohibited from living within 1000 feet of a school or child care facility is expanded to include those convicted of a crime committed in another jurisdiction that if committed in Arizona would be considered a dangerous crime against children (as defined in ARS 13-604.01). It also clarifies that the one thousand foot residency restriction is measured in a straight line between the nearest points on the property lines without regard to intervening structures or objects. SB 1011, sponsored by Senator Tibshraeny, was signed by the Governor on April 4, 2008.

#### **SB 1021 (Chapter 9, Laws 2008) COMMUNITY NOTIFICATION; JUVENILE SEXUAL PREDATORS**

This bill states that for a sexual predator on probation who is younger than 22 and who was younger than 18 when the offense was committed, a judge, as a result of the annual probationary review, may continue, defer or terminate community notification requirements. SB 1021, sponsored by Senator C. Gray, was signed by the Governor on April 4, 2008.

**SB 1336 (Chapter 210, Laws 2008) SEXUAL CONDUCT; MINOR; SCHOOL TEACHER**

The list of persons for whom conviction of sexual misconduct with a minor who is at least 15 years old is expanded to include the minor's teacher, clergyman or priest. This crime will be classified as a class 2 felony which formally only applied to if the person was the minor's parent, stepparent, adoptive parent, foster parent or legal guardian. SB 1336, sponsored by President Bee, was signed by the Governor on May 15, 2008.

**SB 1355 (Chapter 195, Laws 2008) ATTEMPTED DANGEROUS CRIMES AGAINST CHILDREN**

For sentencing purposes, the list of predicate felonies committed against a child by a person convicted of a serious crime against children in the second degree that is charged as a class 3 felony with a presumptive sentence of 10 years in prison is expanded to include attempted first degree murder of a minor, second degree murder of a minor, sexual assault of a minor, sexual contact with a minor and making meth in a way that causes injury to a minor. Minor is defined as a child under 12 years old. SB 1355, sponsored by Senator Pesquiera, was signed by the Governor on May 12, 2008.

*Bills that Failed***HB 2612 DANGEROUS CRIMES AGAINST CHILDREN; SENTENCING**

Under this bill, the mandatory sentence for a person at least 18 years old who is convicted of a dangerous crime against children in the first degree involving sexual assault of a minor who is 12 years old or younger or sexual conduct with a minor who is 12 years old or younger would have been increased from life imprisonment to natural life imprisonment. A person who is at 18 years old (or tried as an adult) and who is convicted of specified crimes against a person who is 12, 13 or 14 years old may be sentenced to life imprisonment (not eligible for any release from confinement for 35 years unless the sentence is commuted). The bill also would have increased the mandatory sentence for a person who is at least 18 years old and who is convicted of specified dangerous crimes against children in the first degree (i.e. aggravated assault, molestation, commercial exploitation) from a presumptive term of imprisonment for 17 years to a term of 20 years. It also would have increased the mandatory sentence for a person who is at least 18 years old and who is convicted of specified dangerous crimes against children involving sexual abuse or bestiality from a presumptive term of imprisonment for 5 years to a term of 10 years. The list of aggravating factors to be considered by a trier of fact in determining whether to impose a death sentence would have been expanded to include that the victim was under 12 years old and the offense committed against the murdered person involved a sexual offense or sexual exploitation. HB 2612, sponsored by Representative Mason, failed to receive a hearing in the House Committee on Judiciary.

**SB 1460 SEXUAL CONDUCT; MINOR; JAIL**

Under this bill, persons convicted of sexual conduct with a minor who are not sentenced to a term of incarceration in prison would have been required to serve a one year sentence in county jail. The conditions that comprise a defense to the charge of sexual conduct with a minor are changed to state the defendant must be under 20 and must be more than 36 months

older than the victim. SB 1460, sponsored by Senator Gould, failed to receive a hearing in the House Committee on Judiciary.

## Neighborhoods – Payday Lending

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### *Bills that Failed*

#### **HB 2148 PAYDAY LOANS; REGULATIONS**

This bill would have made various changes in statute aimed regulating the payday loan industry, including prohibiting loans of less than \$3,000 unless done through chartered bank or thrift or otherwise permitted by law. HB 2148, sponsored by Representative Ableser, failed to receive a hearing in the House Committee on Financial Institutions & Insurance.

#### **HB 2672 SMALL INSTALLMENT LOAN ACT**

This bill would have is permitted a lender to charge an acquisition fee and a monthly handling charge instead of interest on consumer loans of between \$200 and \$3,000. The bill would have required that loans only be for a term of between five and twelve months. HB 2672, sponsored by Representative Biggs, failed to receive a hearing in the Senate Committee on Financial Institutions & Retirement.

#### **SB 1239 PAYDAY LOANS; REGULATIONS; SUNSET EXTENSION**

This bill would have extended the sunset date of laws authorizing payday loan transaction for two years to July 1, 2012. The bills would have also expanded the list of information in the annual license renewal application to include: the total number and dollar amount of loans, the average annual percentage rate, average dollar amount, average length of term for loans, total dollar amount of fees collected, the total amount written off, and the total number of customers that entered into more than one loan transaction. The Department of Financial Institutions would have been required to aggregate the information and report to the Legislature and governor by Nov 1 each year. In session law, the Department of Financial Institutions is to conduct a review by July 1, 2010, of information reported annually by the companies and of comparable loan rates and terms. SB 1239, sponsored by Senator Blendu, failed to pass Senate Committee of the Whole.

#### **SB 1492 PAYDAY LOANS; REPEAL TERMINATION DATE**

This bill would have permanently authorized the deferred presentment licensing program. SB 1492, sponsored by Senator Gorman, failed to receive a hearing in the Senate Committee on Financial Institutions & Retirement.

## Neighborhoods – Graffiti

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### *New Laws*

#### **HB 2701 (Chapter 307, Laws 2008) COUNTY GRAFFITI ABATEMENT; PROCEDURES**

This bill stipulates that the power of a county board of supervisors to adopt ordinances to abate graffiti is clarified to state that of the three measures included in statute that may be used to restrict the retail display of potential graffiti tools, it is the business that shall determine which to implement. HB 2701, sponsored by Representative Burns, was signed by the Governor on July 7, 2008.

### *Bills that Failed*

#### **HB 2740 GRAFFITI; PARENT RESPONSIBILITY**

This bill would have allowed the court to order a juvenile's parent of guardian to assist the juvenile in the performance of community restitution if the juvenile is convicted of a second or subsequent graffiti offense and if the parent or guardian had knowledge of the juvenile's conduct. HB 2740, sponsored by Representative Chad Campbell, failed to receive a hearing in the Senate Committee on Judiciary.

#### **HB 2794 GRAFFITI RELATED MATERIALS; STORAGE; DISPLAY**

This bill would have prohibited stores from displaying graffiti-related materials (spray paint, broad-tipped indelible markers, etching solutions) in an area accessible to the public without store employee assistance. The bill also would have created exceptions for displays that are in the line of sight of the cashier or a viewed by surveillance equipment. HB 2794, sponsored by Representative Chad Campbell, failed to receive a hearing in the House Committee on Judiciary.

#### **HB 2819 GRAFFITI IMPLEMENTS; UNLAWFUL POSSESSION; MINORS**

This bill would have prohibited an unsupervised person under 18 from possessing any graffiti implement on public or private property without the express consent of the owner of the property. HB 2819, sponsored by Representative Chad Campbell, failed to receive a hearing in the House Committee on Judiciary.

#### **SB 1037 GRAFFITI; PARENT RESPONSIBILITY**

This bill stipulates that after a second or subsequent conviction of a juvenile for criminal damage (graffiti), the court may order the juvenile's parent or guardian to assist the juvenile in the performance of the community service if the court finds that the parent both knew of the juvenile's intention and knowingly provided the means to engage in the conduct. SB 1037, sponsored by Senator Harper, failed to pass House Final Reading.

## Public Safety/Courts

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### *New Laws*

#### **HB 2003 (Chapter 18, Laws 2008) TRAFFIC SURVIVAL SCHOOL; MAXIMUM ENROLLMENT**

This bill stipulates that the only restriction on maximum number of people that can enroll in a traffic survival training and education session is the lawful fire safety capacity of the facility in which the class meets. HB 2003, sponsored by Representative Reagan, was signed by the Governor on April 11, 2008.

#### **HB 2088 (Chapter 142, Laws 2008) MOTOR CARRIER SAFETY; VEHICLE EQUIPMENT**

This bill makes several changes to statutes governing safety equipment on trucks and buses, including a requirement that vehicles exceeding 30 feet in length must have a third reflector and a third side marker light mounted at the midpoint between front and rear reflectors, two stoplights are required for buses, trucks and truck tractors, and two red flags or lanterns (formerly only one) are required to be displayed at the rear of a load that extends four or more feet from the back of the bed or body of the vehicle. Also, the bill repeals state laws regarding the maximum number of consecutive hours a driver of a commercial vehicle may be on duty. HB 2088, sponsored by Representative Biggs, was signed by the Governor on May 1, 2008.

#### **HB 2207 (Chapter 301, Laws 2008) SENTENCING; REORGANIZATION**

This bill re-organizes the criminal code. No apparent substantive change. Effective January 1, 2009. HB 2207, sponsored by Representative Farnsworth, was signed by the Governor on July 7, 2008.

#### **HB 2321 (Chapter 237, Laws 2008) IDENTITY THEFT; FACTUAL INNOCENCE**

This bill stipulates that a victim of identity theft whose name has been falsely associated with criminal activity or falsely entered in a civil action or judgment may petition the court for an expedited judicial determination of the person's factual innocence. The provisions of this bill are effective January 1, 2009. HB 2321, sponsored by Representative Driggs, was signed by the Governor on May 23, 2008.

#### **HB 2488 (Chapter 39, Laws 2008) DEFENSIVE DRIVING SCHOOLS**

Beginning Jan 1, 2009, if a court orders an individual to attend defensive driving school, the court shall include a list of all eligible, court-certified schools that comply with the court's reporting requirements and shall not promote or favor any one school, regardless of the school's contractual status with the court. HB 2488, sponsored by Speaker Weiers, was signed by the Governor on April 15, 2008.

**SB 1049 (Chapter 22, Laws 2008) SAFE HAVEN INFANTS; NOTICE**

This bill requires a fire station or a health care institution classified by the Department of Health Services as a hospital or an outpatient treatment center to post a notice at all entrances stating that it accepts newborn infants under the Safe Haven statute. The notice must be printed in bold capital letters, at least two inches in height. However, there is no civil liability if a fire station, hospital or outpatient treatment center does not post this notice. SB 1049, sponsored by Senator L. Gray, was signed by the Governor on April 14, 2008.

**SB 1153 (Chapter 274, Laws 2008) IMPROVISED EXPLOSIVE DEVICE; DEFINITION**

This bill expands the definition of prohibited weapon for purposes of the criminal code to include improvised explosive devices. Fireworks and certain other items used for their intended purpose are exempted. The list of actions defined as misconduct involving weapons is expanded to include possession, transport or sale of dry ice if there is intent to cause injury or death or property damage. The criminal classification for misconduct involving simulated explosive devices is increased to a class 5 felony from a class 1 misdemeanor. SB 1153, sponsored by Senator C. Gray, was signed by the Governor on June 19, 2008.

**SB1332 (Chapter 276, Laws 2008) DNA TESTING; ARREST**

This bill clarifies that a person charged with a specified felony or misdemeanor (sex crimes, first and second degree burglary and certain serious crimes) and who is summoned to appear in court must submit to DNA testing only under certain circumstances. Apparent purpose is to eliminate occasions when a defendant may be required to submit to DNA testing multiple times during procedures related to the same offense or arrest. This bill also establishes the requirement for DNA testing for juveniles arrested for specified crimes. SB 1332, sponsored by Senator C. Gray, was signed by the Governor on June 19, 2008.

**SB 1412 (Chapter 282, Laws 2008) BIOLOGICAL EVIDENCE; RETENTION; PRESERVATION**

This bill directs the appropriate governmental entity to retain all identified biological evidence that is secured in connection with a felony sexual offense or homicide for: 1) the entire period in which a person convicted of the offense remains incarcerated or on supervised release; or 2) in a cold case, 55 years or until a person is convicted of the crime and remains incarcerated or under supervised release. Also requires that anyone arrested for a felony, domestic violence offense, sexual offenses or DUI must be fingerprinted by the arresting or custodial agency. Courts must order a person who refused to provide fingerprints to appear for fingerprinting. Prints obtained under this section of law are to be retained indefinitely. The provisions of this bill will be effective January 1, 2009. SB 1412, sponsored by Senator Huppenthal, was signed by the Governor on June 24, 2008.

*Bills that Failed***HB 2090 EXTREME DUI; VIOLATION**

This bill would have repealed the section of Laws 2007, Chapter 195 that dealt with extreme DUI. The new language in this bill does not seem to make any substantive changes in extreme DUI statutes (ARS 28-1382) that were valid before the 2007 law went into effect. HB 2090, sponsored by Representative Biggs, failed to receive a hearing in the House Committee on Commerce.

**HB 2114 UNATTENDED CHILD IN MOTOR VEHICLE**

This bill would have made it unlawful for a person who is responsible for a child who is under 10 years old to intentionally, knowingly or recklessly leave the child in a motor vehicle without supervision (by a person 14 years old or older) if the conditions present a risk to the child's health or safety, the engine is running or the key is located in the passenger compartment of the vehicle. A violation of this statute is a class 3 misdemeanor, except that a second or subsequent violation is a class 2 misdemeanor. HB 2114, sponsored by Representative McClure, failed to receive a hearing in the House Committee on Judiciary.

**HB 2293 FIRST DEGREE MURDER; JUVENILES; SENTENCING**

This bill stipulated that a defendant convicted of first degree murder who was under 18 years old at the time the crime was committed shall be sentenced to life in prison and is not eligible for parole for 25 years. Currently, a defendant under 18 years old but tried as an adult could be sentenced to the death penalty. HB 2293, sponsored by Representative Sinema, failed to receive a hearing in the House Committee on Judiciary.

**HB 2389 FIREARMS; DEATH PENALTY; SEX WITH MINOR**

This bill would have removed from the list of prohibited possessors of firearms persons who have been convicted of a felony if the conviction has been expunged, vacated or if the person's civil rights have been restored. It also would have imposed a minimum one-year jail term for persons convicted of sexual conduct with a minor in cases where the court ordered a term of probation rather than incarceration in prison. If the state has filed a notice of intent to seek the death penalty and the defendant is convicted of first degree murder, the defendant shall be sentenced to death or natural life (life without possibility of parole). Currently, such a defendant could be sentenced to life and be eligible for parole after 25 years (35 years if the murdered person was under 15 years old). Also, the bill specifically would have permitted the state to use evidence regarding a defendant's criminal record, character and propensities in the penalty phase of capital cases regardless of whether the defendant presents evidence of mitigation. Additionally, carrying a deadly weapon without a permit in or on a means of transportation (except public transit) would have been removed from the list of activities that constitute misconduct involving weapons. HB 2389, sponsored by Representative Kavanagh, was vetoed by the Governor on July 7, 2008.

**H2395 DUI; OUI**

This bill would have made numerous changes to statutes governing operating a watercraft while intoxicated (OUI) and driving while intoxicated (DUI), including increasing penalties for OUI, requiring persons whose licenses had been suspended to complete an alcohol or drug

screening, education or treatment program before the license may be reinstated, and changing the period of required use of an ignition interlock device to 6 months from one year if the person successfully completed a drug or alcohol treatment or education program. HB 2395, sponsored by Speaker Weiers, was vetoed by the Governor on April 29, 2008.

### **HB 2396 TEXT MESSAGING WHILE DRIVING; PROHIBITION**

This bill would have made it a non-moving civil violation to operate a motor vehicle on a highway while sending or receiving a text message. A person who violates this statute is subject to a fine of between \$100 and \$250. The bill also would have established a 30 day warning period during which law enforcement shall not issue citations for violations, but may stop vehicles and issue verbal warnings to persons violating this statute. HB 2396, sponsored by Representative Farley, failed to receive a hearing in the House Committee on Transportation.

### **HB 2397 CELLULAR TELEPHONES; USE WHILE DRIVING**

This bill would have made it a non-moving civil violation to operate a motor vehicle on a highway while engaging in a cell phone call unless the phone is equipped with a hands-free device (with exceptions). A person who would have violated this statute would be subject to a fine of between \$50 and \$200. Also, a 30 days warning period during which law enforcement shall not issue citations for violations, but may stop vehicles and issue verbal warnings to persons violating this statute would have been established. HB 2397, sponsored by Representative Farley, failed to receive a hearing in the House Committee on Transportation.

### **HB 2398 CELLULAR TELEPHONES; CLASS G LICENSEES**

This bill stipulated that a class G licensee (a person between 16 and 18 years old) shall not use a cell phone or personal digital assistant while operating a motor vehicle on a highway (with exceptions). A person who would have violated this statute shall be subject to a civil penalty of \$75 to \$100 and shall have the restrictions imposed by a class G license extended. HB 2398, sponsored by Representative Farley, failed to receive a hearing in the House Committee on Transportation.

### **HB 2414 CELLULAR TELEPHONES; MINORS; DRIVING USE**

This bill stipulated that a person under 18 years old who operates a motor vehicle while using a cell phone to engage in a call without a hands-free device is subject to a civil penalty of \$50 to \$200 (with exceptions). A 30 day warning period during which law enforcement shall not issue citations for violations, but may stop vehicles and issue verbal warnings to persons violating this statute would have also been established. HB 2414, sponsored by Representative Garcia, failed to receive a hearing in the House Committee on Transportation.

### **HB 2603 PHOTO ENFORCEMENT; DRIVING RECORD; INSURANCE**

This bill stipulated that if a person is found responsible for a civil traffic violation by means of a photo enforcement system, the violation may not be considered for the purpose of determining whether the person's driver license should be suspended or revoked and an insurer may not consider it as a traffic violation against the person for the purposes of establishing

motor vehicle liability insurance rates or insurability. HB 2603, sponsored by Representative Mason, failed to receive a hearing in the House Committee on Financial Institutions & Insurance.

### **HB 2629 JUSTIFICATION; DEFENSIVE DISPLAY OF FIREARM**

Under this bill, a person would have been justified in the defensive display of a firearm against another when, and to the extent, a reasonable person believed that physical force was immediately necessary to protect the person against the other's use or attempted use of unlawful or deadly physical force. HB 2629, sponsored by Representative Pearce, was vetoed by the Governor on May 27, 2008.

### **HB 2630 CONCEALED WEAPONS; PETTY OFFENSE**

Misconduct involving weapons that involves carrying a concealed deadly weapon without a permit (except a pocket knife) or carrying a deadly weapon without a permit concealed within immediate control of any person in or on a means of transportation would have been reduced in classification to a petty offense unless the violation occurred in the commission or attempted commission of a serious offense. Currently, the offense is a class 1 misdemeanor. HB 2630, sponsored by Representative Pearce, was vetoed by the Governor on April 29, 2008.

### **HB 2734 DISTRACTED DRIVING**

This bill stipulated that a person commits distracted driving if the person operates a motor vehicle and commits a traffic violation while doing an activity that is not related to the operation of the motor vehicle, including using an electronic device other than a hands-free electronic device, reading, writing, consuming food or beverages, changing clothing or personal grooming. HB 2734, sponsored by Representative Tobin, failed to receive a hearing in the House Committee on Transportation.

### **HB 2807 IMMIGRATION; LOCAL ENFORCEMENT**

Under this bill, law enforcement officers would not have been prohibited from sending, receiving or maintaining information regarding the immigration status of persons in order to: determine eligibility for welfare or other government benefit programs, verify legal residence or confirm identity of persons arrested. Local law enforcement agencies would have been required to implement a program to cross-train officers to address violations of federal immigration laws. HB 2807, sponsored by Representative Nelson, was vetoed by the Governor on April 28, 2008.

### **HCR 2064 LOCAL ENFORCEMENT; IMMIGRATION**

This resolution would have placed a question on the 2008 general election ballot of whether to amend statute to require all officials, agencies and personnel of counties and municipalities to comply with and support federal immigration laws. HCR 2064, sponsored by Representative Nelson, failed to receive a hearing in the House Committee on Rules.

**SB 1004 EXTREME DUI; JAIL**

This bill would have specified that for a first offense driving under the influence (DUI) with a blood alcohol content (BAC) of at least 0.15, a judge may order the defendant to not consume alcohol for a period of at least 30 days. For a second extreme DUI offense within 84 months, a judge may order a defendant to not consume alcohol for a period of 90 days. The court may extend the period of enforced abstinence from alcohol. Finally, this bill would have removed a judge's ability to suspend a portion of jail time associated with the offense. SB 1004, sponsored by Senator Waring, failed to receive a hearing in the House Committee on Government.

**SB 1005 DUI; HOME DETENTION; INELIGIBILITY**

This bill stipulated that a person convicted of a DUI offense involving motor vehicles or watercraft is ineligible for home detention. This bill also would have removed provisions governing home detention programs authorized by municipalities and counties for persons convicted of DUI offenses. SB 1005, sponsored by Senator Waring, failed to receive a hearing in the Senate Committee on Public Safety & Human Services.

**SB 1007 DUI; AGGRAVATED; SENTENCES**

This bill stipulated that a person who is convicted of an aggravated DUI for committing a DUI or extreme DUI while required to participate in the certified ignition interlock device program is not eligible for probation, pardon, commutation or suspension of sentence or release on any other basis until the person has served at least four months in prison. SB 1007, sponsored by Senator Waring, failed to receive a hearing in the Senate Committee on Public Safety & Human Services.

**SB 1008 DRIVERS LICENSE SUSPENSION; TRAFFIC ACCIDENTS**

This bill stipulated that if a person who is involved in a motor vehicle accident that involves death or serious physical injury submits to a test of the person's blood, breath, urine or other bodily substance for the purpose of determining alcohol concentration or drug content, a law enforcement officer shall forward a certified report to the Department of Motor Vehicles. Under this bill, if the results of the test are not immediately available or if they indicate that the person has a 0.08 or more alcohol concentration or 0.04 or more alcohol concentration if the person was operating a commercial vehicle, the officer shall serve an order of suspension on the person on behalf of the Department. The order of suspension would have been effective immediately and require the person to immediately surrender any license or permit to drive issued by this state. The department would have been required to suspend the person's license or permit to drive or right to apply for a license or permit or any nonresident operating privilege pending the results of any chemical test or for not less than 90 days if the results of the test indicate 0.08 or more alcohol concentration, 0.04 or more alcohol concentration if the person was operating a commercial vehicle or the presence of any drug defined in section 13-3401 or its metabolite. If a nonresident's privilege to operate a motor vehicle in this state would have been suspended under this section, the Department shall give written information of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license. SB 1008, sponsored by Senator Waring, failed to pass the Senate Committee on Transportation.

**SB 1033 DUI; COMMUNITY RESTITUTION; DRIVER LICENSE**

This bill stipulated that a person whose driver license was revoked for a second DUI within 84 months and who was ordered to perform community restitution must provide proof from the court that community restitution was completed in order to receive a new driver license. Under this bill, If a person failed to complete restitution, the court may have been able to order alternative sanctions, and the person would not have been issued a new driver license until the person provides proof that the alternative sanctions have been completed. SB 1033, sponsored by Senator Waring, failed to receive a hearing in the House Committee on Government.

**SB 1080 OPERATING UNDER THE INFLUENCE; WATERCRAFT**

This bill would have made numerous changes to statutes regarding operating a watercraft while intoxicated, including establishing sentences of incarceration for convicted persons; making a convicted person ineligible for work/school release or home detention; eliminating the civil penalty for refusing to submit to blood alcohol testing; and increasing additional assessments for convictions of operating a watercraft while intoxicated. The time period within which a second or subsequent offense may trigger enhanced punishment is lengthened to 84 months from 60 months. SB 1080, sponsored by Senator L. Gray, failed to receive a hearing in the House Committee on Government.

**SB 1106 CONCEALED WEAPONS PERMIT; RENEWAL OPTION**

Under this bill, a concealed weapons permit would have been, at the option of the permit holder, valid for the lifetime of the permittee. Otherwise, the permit, as currently, would have been valid for five years. Like the current five-year permit, a lifetime permit could have been suspended or revoked for stated reasons. SB 1106, sponsored by Senator C. Gray, was vetoed by the Governor on May 27, 2008.

**SB 1132 FIREARMS; RESTAURANTS; POSTING**

This bill stipulated that a holder of a restaurant license may have allowed the possession of a pistol on the premises if there was a notice clearly posted in at least 80 point type at the primary and secondary public entrances stating the establishment allows pistols and serves alcohol; however, it would have still been illegal for the person carrying a pistol to consume alcohol. Violation would have been a class 1 misdemeanor. It would have been a class 2 misdemeanor to remove the pistol from a holster or a place of lawful concealment unless the person would have been defending his/her life or the life of another person. The list of acts that constitutes misconduct involving weapons would have been expanded to include entering a restaurant with a firearm if the required notice is not posted. SB 1132, sponsored by Senator Harper, failed to receive a hearing in the House Committee on Judiciary.

**SB 1184 DUI; TREATMENT; EDUCATION; IGNITION INTERLOCK**

This bill would have made numerous changes to driving under the influence (DUI) statutes including: requiring driver license suspension for a person who was driving under the influence and caused a traffic accident resulting in death or serious physical injury; requiring a violator to complete alcohol and drug screening and treatment and comply with any court ordered ignition interlock use before his/her driving privilege may be reinstated; allowing a judge to order a

person charged or convicted with DUI to not consume alcohol demonstrated through continuous alcohol monitoring or a minimum of twice daily alcohol testing; removing the option for a judge to suspend part of a sentence of incarceration in DUI cases; modifying the time periods for ignition interlock device requirements. SB 1184, sponsored by Senator L. Gray, failed to receive a hearing in the House Committee on Government.

**SB 1214 CONCEALED WEAPONS; SCHOOL GROUNDS**

Under this bill, the prohibition against carrying a weapon onto school grounds would not have applied to persons who possess a valid concealed carry permit. For purposes of this section of statute, the definition of "school" is expanded to include community colleges as well as universities, both public and private. SB 1214, sponsored by Senator Johnson, failed to pass Senate Committee of the Whole.

**SB 1231 REIMBURSEMENT COSTS; DUI & DRUG OFFENSES**

This bill stipulated that the courts shall order that a person convicted of specified drug offenses must reimburse the political subdivision that prosecuted the charges for the costs associated with the person's conviction. Courts may adjust the amount based on the person's ability to pay. SB 1231, sponsored by Senator L. Gray, failed to receive a hearing in the House Committee on Judiciary.

## Transportation

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### *New Laws*

#### **HB 2094 (Chapter 299, Laws 2008) HIGHWAY PROJECT ADVANCEMENT NOTES**

This bill expands the definition of excise taxes to include taxes imposed by a county, city or town (formerly, limited to city or town). It also increases the amount of Highway Project Advancement Notes a county or municipality may issue to \$300 million from \$100 million. Finally, the definition of highway project is expanded to include a transportation improvement plan of a regional association of governments. HB 2094, sponsored by Representative Biggs, was signed by the Governor on July 7, 2008.

#### **HB 2133 (Chapter 157, Laws 2008) TRANSPORTATION DISTRICTS**

For the purposes of state transportation planning, if a county reaches a population of 500,000, it becomes a transportation district comprised only of itself. Currently, of the six districts, only Maricopa and Pima counties are single-county districts; the other 13 counties are distributed among the remaining four districts. The provisions of this bill become effective January 1, 2009. HB 2133, sponsored by Representative Rios, was signed by the Governor on May 6, 2008.

### *Bills that Failed*

#### **HB 2049 ADOT RULE REVISIONS**

This bill would have removed the rule-making authority of the State Transportation Board regarding construction contracts, revenue bonding, local government airport grants and establishing or vacating highways. It would have also removed the rule-making authority of the Department of Transportation in various areas, including expending monies in the state Transportation Fund, closing of highways under construction or repair, the application for and expenditure of public transit monies, and establishing brake fluid standards. HB 2049, sponsored by Representative McClure, failed to pass Senate Committee of the Whole.

#### **HB 2091 TRANSPORTATION PLANS; BALLOT; MODE DELINEATION**

This bill would have required state or county transportation plans that are submitted for voter approval to appear on the ballot which each mode of transportation and its costs clearly delineated. It also would have required voters to be allowed to vote yes or no on each transportation mode separately. HB 2091, sponsored by Representative Biggs, failed to receive a hearing in the House Committee on Transportation.

#### **HB 2164 REGIONAL TRANSPORTATION AUTHORITIES**

This bill would have allowed any county that is a member of a regional council of governments (currently, only a county with a population of 400,001 - 1 million could establish a regional transportation authority) to establish a regional transportation authority. The executive director of the authority must reside in the geographic boundaries of the authority. If approved by the voters at a countywide election, the authority shall levy and the Department

of Revenue shall collect a transportation excise tax. HB 2164, sponsored by Representative Prezelski, failed to receive a hearing in the House Committee on Transportation.

### **HB 2258 CIVIL AIR PATROL; FUND**

This bill would have established a Statewide Aviation Services Enhancement Fund to be administered by the Department of Transportation. Proceeds fund the Civil Air Patrol. Monies derive from a percentage of the fuel tax revenue otherwise designated for distribution to local governments. HB 2258, sponsored by Representative Nichols, failed to pass Senate Committee of the Whole.

### **HCR 2001 HIGHWAY USER REVENUE FUND USES**

This resolution would have placed a question on the 2008 general election ballot of whether to amend the constitution to expand the permitted use of highway user revenues to include any transportation project. HCR 2001, sponsored by Representative Chad Campbell, failed to receive a hearing in the House Committee on Transportation.

### **SB 1420 TOLL ROADS; PUBLIC HIGHWAY AUTHORITIES**

This bill would have authorized local governments to establish public highway authorities to construct toll roads. Authority revenue would not be subject to taxation. This bill would have allowed authorities to issue bonds and pledge revenues from the tolls to pay the bonds. Boards of directors would have governed the authorities, and made rules relating to toll collection and enforcement. Finally, toll evasion would have been subject to a civil penalty of \$10 to \$150. SB 1420, sponsored by Senator Tibshraeny, failed to receive a hearing in the House Committee on Transportation.

## Water/Environmental Resources

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### *New Laws*

#### **HB 2270 (Chapter 216, Laws 2008) WATER SUPPLY; DISCLOSURE**

Under this bill, the Department of Real Estate (DRE) must post on its website information advising prospective home buyers to investigate water availability before purchasing real property and must include a link to the website of the Department of Water Resources (DWR) for definitions of specified terms that apply in areas outside active management areas (AMAs). DRE must also display on its website a current map of all areas in the state outside AMAs. DWR must also post and maintain on its website definitions of specified water supply terms. All municipal or and private water companies outside of an AMA must provide to anyone who requests it a written statement describing the water supply status of real property within the services area of that municipality or private water company, including the applicable water supply definition. The written statement must be delivered by fax, e-mail or US mail, as designated by the person requesting the information, within 3 business days after receipt of the request. The provisions of this bill are effective January 1, 2009. HB 2270, sponsored by Representative Clark, was signed by the Governor on May 20, 2008.

#### **HB 2614 (Chapter 306, Laws 2008) RENEWABLE ENERGY VALUATION; EXPIRATION EXTENSION**

This bill extends authorization for the Dept of Revenue to value renewable energy equipment until Dec 31, 2040. HB 2614, sponsored by Representative Mason, was signed by the Governor on July 7, 2008.

#### **HB 2615 (Chapter 241, Laws 2008) SOLAR ENERGY SYSTEMS; PERMITS**

This bill requires that counties and municipalities adopt specified standards for issuing permits for the use of solar energy devices. Any building or permit fee assessed by a county or municipality for a building permit for solar construction must cover only the expense of the service for which the fee is assessed and cannot exceed the actual cost of issuing a permit. Permittees may request an itemized list of the individual costs associated with the permit fee. Also under this bill, a local government solar energy equipment permit process improvement study committee is established to collect information on best practices for solar energy permitting and to make recommendations to the governor and Legislature by December 31, 2009. HB 2615, sponsored by Representative Mason, was signed by the Governor on May 23, 2008.

#### **HB 2621 (Chapter 254, Laws 2008) BIOFUEL STANDARDS**

This bill establishes a biofuels conversion program in the Department of Commerce to encourage the use of biofuels by distributing grants to fuel dispensing sites. It also modifies definitions relating to the Department of Weights and Measures statutes by changing the definitions of biodiesel and "diesel fuel" and adding definitions of biodiesel blend, biofuel, biofuel blend and misfuel. The bill also requires fuel dispensers of biodiesel blends that contain up to 5% biodiesel to be so labeled. The product transfer documents must state the percentage, if any, of biodiesel in the finished product. Finally, the Department of Weights & Measures is authorized to adopt rules regarding biofuel and biofuel blend testing, labeling

and reporting. HB 2621, sponsored by Representative Boone, was signed by the Governor on June 6, 2008.

### **HB 2772 (Chapter 224, Laws 2008) GROUNDWATER TRANSFERS; COCONINO PLATEAU**

Under this bill, a municipality with a population not exceeding 8,000 in the Coconino Plateau Groundwater Basin that was transporting groundwater into the municipal water service area as of January 1, 2001, from wells drilled erroneously and without knowledge that the wells were in an adjacent groundwater basin may continue and expand that transfer under specified conditions. The amount of water that may be transported is limited to 700 acre-feet of groundwater per year, except the municipality may apply to the Department of Water Resources (DWR) for special permission in drought or other emergency conditions. The municipality's right to transfer may be terminated by the DWR if the municipality obtains the legal right to receive a new supply of water that is physically available and sustainable. HB 2772, sponsored by Representative Mason, was signed by the Governor on May 20, 2008.

### **SB 1288 (Chapter 192, Laws 2008) WATER; LOCAL STORMWATER QUALITY PROGRAMS**

This bill stipulates that counties required by the Clean Water Act to obtain coverage under either a national or state pollutant discharge elimination system stormwater program may develop and implement stormwater pollution prevention plans and stormwater management programs, adopt regulations and fees for the use of county land, establish and enforce a county permit program, charge civil penalties of up to \$2500 for violations, and hire an administrative director to enforce the program or plan. SB 1288, sponsored by Senator Flake, was signed by the Governor on May 12, 2008.

#### *Bills that Failed*

### **HB 2132 COUNTY WATER AUTHORITY; COLORADO RIVER**

This bill would have eliminated the requirement that the Mohave County Water Authority use 3,500 acre-feet of its Colorado River water allotment exclusively for industrial uses, thereby reserving the entire allotment (18,500 acre feet per year) for municipal uses. HB 2132, sponsored by Representative McLain, failed to pass Senate Committee of the Whole.

### **HB 2135 INCINERATORS; MUNICIPALITIES AND COUNTIES**

This bill stipulated that counties and municipalities in air quality Area A (Phoenix metro) and Area B (Tucson metro) must limit the capacity of new incinerators to the capacity of the largest capacity incinerator in the jurisdiction and not increase the capacity of any existing incinerator within the jurisdiction. HB 2135, sponsored by Representative Ableser, failed to receive a hearing in the House Committee on Environment.

### **HB 2141 HOME SALES; WATER SUPPLY DISCLOSURE**

Under this bill, sub-dividers who sell one or more lots in a subdivision outside of an active water management area would have been required to record with the county recorder a statement of water adequacy or inadequacy. The statement would have been required to be

recorded with the plat for the subdivision. HB 2141, sponsored by Representative Ableser, failed to receive a hearing in the Senate Committee on Government.

### **HB 2142 PROPERTY; DISCLOSURE; WATER**

This bill would have required real estate brokers or salespersons to disclose to buyers whether the Department of Water Resources (DWR) has issued a notice of adequate or assured water supply for the property. Otherwise, the seller must, as part of the sales transaction recorded with the county recorder, file a notice that the DWR has not issued a determination that the property has either an assured or adequate water. HB 2142, sponsored by Representative Ableser, failed to receive a hearing in the House Committee on Water & Agriculture.

### **HB 2144 LAND DIVISIONS; WATER REQUIREMENTS**

This bill would have prohibited a county or municipality from allowing land divisions of 5 or fewer lots, tracts or parcels without a water supply as determined by statute. HB 2144, sponsored by Representative Ableser, failed to receive a hearing in the House Committee on Water & Agriculture.

### **HB 2310 EXEMPT WELLS; ACTIVE MANAGEMENT AREAS**

This bill stipulated that beginning January 1, 2010, in an active management area, wells would not have been allowed to withdraw more than 4 acre-feet per year for non-irrigation use. Also beginning January 1, 2010, a person who withdraws water from any well in an active management area would have been required to use a water measuring device approved by the director of the Department of Water Resources, and a person who withdraws water from an exempt well in an active management area would have to file an annual report with the director. Penalties for a violation of the limitation on annual water use from an exempt well would have included \$500 for excessive water withdraws of up to 1 acre-foot per year, \$1,500 for excessive water withdraws of between 1 acre-foot and 3 acre-feet and \$5,000 for excessive water withdraws of more than 3 acre-feet. HB 2310, sponsored by Representative Sinema, failed to receive a hearing in the House Committee on Water & Agriculture.

### **HB 2311 PUBLIC BUILDINGS; ENVIRONMENTAL STANDARDS**

This bill would have required green building certification of plans for new public buildings of a certain size or renovations of existing public buildings that meet stated criteria. The bill would have also required the Department of Commerce Energy Office to develop and issue guidelines for implementing this requirement, and public agencies must annually report ongoing operating savings as a result of green building requirements to the Energy Office. By July 1, 2014, the Auditor General must conduct a special audit to identify costs, savings, and effectiveness associated with implementation of the green building standard adopted by this legislation. HB 2311, sponsored by Representative Sinema, failed to receive a hearing in the House Committee on Government.

**HB 2766 OMNIBUS ENERGY ACT OF 2008**

This bill would have established a number of provisions related to energy use and conservation. Under this bill, there was a requirement that beginning Jan 1, 2009, counties and municipalities must annually report to the Energy Office of the Dept of Commerce on the total number of building permits issued in the previous year and the percentage that were issued for energy efficient buildings. Additionally, engine idling restrictions are rewritten and extended to be applicable statewide (currently they only apply to Maricopa metro area). Also, the bill would have required the State Board of Education to adopt rules governing a procurement program for energy performance contracts and renewable energy power purchase contracts. School districts are permitted to retain savings generated from energy cost savings contracts and may use those savings to pay for project implementation. Further, schools (districts and charters) are permitted to accept monies from companies that provide utility services and deposit the funds in an energy and water savings account that will be used to fund capital projects. Schools and utility providers must agree on a schedule to repay the capital investment monies. Electric generators must adopt a standard that requires them to use renewable sources for a minimum of 15% off their total energy generation by 2025. Energy performance goals for state buildings would have been rewritten to require all state buildings constructed after July 1, 2009, to conform to stipulated green building standards. The bill also prescribes voluntary statewide energy efficiency standards for all new buildings. Finally, for property tax valuation purposes, the addition of energy efficient building components are deemed to not add any value to buildings. HB 2766, sponsored by Representative Mason, failed to pass Senate Committee of the Whole.

**SB 1439 WATER; GENERAL INDUSTRIAL USE PERMITS**

This bill would have modified one of the conditions to receive a permit to withdraw groundwater for industrial use to allow animal industry uses to receive a permit if the cost of water service by the municipal or private water company would exceed by 25% the cost of applicant would incur in withdrawing the water. SB 1429, sponsored by Senator Flake, failed to receive a hearing in the Senate Committee on Natural Resources and Rural Affairs.

## Other Legislation

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### *New Laws*

#### **HB 2059 (Chapter 233, Laws 2008) RETIREMENT; PSPRS; HEALTH INSURANCE SUBSIDY**

This bill repeals laws requiring employers of persons participating in the Public Safety Personnel Retirement System to pay a \$25 monthly health insurance subsidy to retired members of PSPRS beginning July 1, 2008, if the member has opted for private health insurance. HB 2059, sponsored by Representative McClure, was signed by the Governor on May 23, 2008.

#### **HB 2206 (Chapter 36, Laws 2008) UNEMPLOYMENT INSURANCE; LIABILITY; LIENS; SERVICE**

This bill stipulates that when the Department of Economic Security determines that an employer is liable for unemployment insurance contributions, the approved list of means of official notification is expanded to include electronic means if the employer consents in writing to being served electronically. In such cases, service is deemed complete upon transmission. Also, an employer's obligation for any contributions, payments in lieu of contributions, interest or penalties required to be collected by the Dept is extinguished if not collected within 6 years of the date when the amounts were determined to be due. HB 2206, sponsored by Representative Hershberger, was signed by the Governor on April 15, 2008.

#### **HB 2371 (Chapter 262, Laws 2008) CRITICAL INFRASTRUCTURE; PIPELINES; REVIEW**

This bill requires the owners of an aviation fuel, petroleum or natural gas transmission facility to report to the Department of Homeland Security by October 1 annually concerning all security measures being taken by the facility or any government agency to protect the critical infrastructure. The Department may make site inspections to audit the accuracy and completeness of the report. Beginning Jan 1, 2010, and every five years thereafter, the Department must report to the governor and Legislature any recommendations for additional security measures. HB 2371, sponsored by Representative Chad Campbell, was signed by the Governor on June 10, 2008.

#### **HB 2466 (Chapter 68, Laws 2008) CRITICAL INFRASTRUCTURE INFO; DISCLOSURE**

This bill states that critical infrastructure information provided to local governments is exempt from public disclosure. Previously, only information provided to DPS was exempt. HB 2466, sponsored by Representative Nelson, was signed by the Governor on April 22, 2008.

#### **HB 2745 (Chapter 152, Laws 2008) EMPLOYER SANCTIONS AMENDMENTS**

This bill restricts application of employer sanctions statutes to employees hired after December 31, 2007. It also clarifies that when an employer hires an independent contractor, it is the

contractor that is liable under the employer sanctions law and not the person or entity that hires the contractor. In this bill, criteria are prescribed to determine independent contractor

status. However, an employer violates the law if the employer hires a contractor or subcontractor who is an alien and whom the employer knows to be an illegal alien. The definition of the crimes of taking or trafficking in the identity of another person is expanded to include instances when the taking or trafficking is used with the intent to obtain or continue employment. A complaint alleging violation of the law does not need to carry the complainant's social security number or be notarized. Complaints submitted on a prescribed form must be investigated while complaints not submitted on the prescribed form may be investigated. Complaints must be submitted in the county in which the alleged violation occurred. If an investigation results in a suspension of business licenses, only the licenses specific to the business location where the violation occurred are suspended. The bill also adds a provision stating that employers are considered to have complied with requirements of the law if there are "good faith" attempts to comply, despite "isolated, sporadic or accidental technical or procedural failure to meet the requirements." Under this bill, employers must participate in the E-verify program to be eligible for economic development incentives from government entities. It also establishes a voluntary employer enhanced compliance program. It adds requirements that employers must comply with all laws regarding income tax withholding, payment of unemployment insurance and workers' comp premiums. Additionally, it prohibits any state or local government agency from granting a license to a person who is not legally present in this country. Finally, the bill states that government entities cannot award public contracts to any contractor or subcontractor that fails to participate in E-verify and comply with federal immigration laws. The bill became effective on May 1, 2008. HB 2745, sponsored by Representative Pearce, was signed by the Governor on May 1, 2008.

#### *Bills that Failed*

#### **HB 2062 RETIREMENT; ASRS; BENEFITS; NORMAL RETIREMENT**

This bill would have made various changes in statutes pertaining to the Arizona State Retirement System effective with persons hired after June 30, 2009. Among the changes: the calculation of the monthly average compensation is based on the highest 60 months within the 10 years preceding retirement (previously, for persons hired after December 31, 1984, the calculation was based on the highest 36 months within the 10 years preceding retirement). Also, a person who terminates employment after five years other than by retirement or death may receive a maximum of 25% of the employer's contributions regardless of the number of years of credited service. The bill would have appropriated \$1.3 million from the ASRS administration account in fiscal 2008-09 to the ASRS for the administrative implementation of this act. HB 2062, failed to pass House Third Read.

#### **HB 2291 PUBLIC EMPLOYEES; COLLECTIVE BARGAINING**

This bill would have allowed government employees to form; join or participate in; or refrain from forming, joining or participating in any labor organization. It would have established the 3 member Public Employee Labor Relations Board, which sunsets on July 1, 2018. The bill would have prohibited a public employee or labor organization from engaging in a strike. A purpose section states that the Board is to encourage conciliation, mediation and voluntary arbitration, to aid and encourage employers and their employees to reach and maintain collective bargaining agreements and to make all reasonable efforts through negotiations to

settle their differences by mutual agreement. HB 2291, sponsored by Representative Chabin, failed to receive a hearing in the House Committee on Government.

**HB 2381 EMERGENCY TELECOMMUNICATION SERVICES;  
ADMINISTRATIVE COSTS**

This bill stipulated that the amount permitted to be paid out of the Emergency Telecommunications Services Fund for administrative costs or fees for consultants' services would have increased from 3% to 5% of the amount deposited into the fund annually. HB 2381, sponsored by Representative Jerry Weiers, failed to receive a hearing in the Senate Committee on Appropriations.

**SB 1052 IMMIGRATION ENFORCEMENT; URBAN REVENUE SHARING**

This bill would have withheld 10% of the Urban Revenue Sharing Fund due to a city of more than 1 million residents if it adopts a law enforcement policy of inquiring into the immigration status of individuals suspected of committing a civil or misdemeanor violation. SB 1052, sponsored by Senator Miranda, was held in the Senate Committee on Public Safety & Human Services.

**SCR 1009 PUBLIC AGENCY LOBBYISTS**

This resolution would have placed a question on the 2008 general election ballot of whether to amend statutes to prohibit public officials, government employees, or contractors retained by a public body from lobbying the Legislature on behalf of that public entity. It also would have prohibited the spending of public resources for lobbying the Legislature. SCR 1009, sponsored by Senator L. Gray, failed to receive a hearing in the Senate Committee on Government.

## Other Legislation – Elections/Public Notice

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### *New Laws*

#### **HB 2410 (Chapter 135, Laws 2008) OPEN MEETINGS; PUBLIC OPINIONS**

This bill states that the state's open meeting law does not apply when a member of a public body expresses an opinion or discusses an issue with the public via the media or technological means if the opinion is not principally directed at or given to another member of the public body and there is no plan for the body to deliberate to take legal action on the issue. HB 2410, sponsored by Representative Kavanagh, was signed by the Governor on April 29, 2008.

#### **HB 2451 (Chapter 110, Laws 2008) ELECTION SECURITY PROVISIONS**

This bill makes various changes to statutes governing the conduct of elections, including requirement that the officer in charge of elections must maintain records showing chain of custody for all voting equipment and ballots from the commencement of early voting through completion of provisional voting tabulation; all sample ballots must contain a statement that identifies it as a sample ballot that cannot be used as an official ballot "under any circumstances"; for elections in which electronic voting equipment is used, each precinct's election judge must compare the total number of votes cast as indicated on the tabulator with the total that signed the poll list plus provisional ballots; and each county's board of supervisors must designate a person to observe the installation and modification of election software or computer programming used for county election administration. HB 2451, sponsored by Representative Reagan, was signed by the Governor on April 28, 2008.

#### **SB 1024 (Chapter 184, Laws 2008) ELECTIONS; CITY WEBSITES; CAMPAIGN FINANCE**

Under this bill, campaign finance information for virtually every election is required to be posted on the website of the appropriate jurisdiction: to the Secretary of State's website for statewide and legislative races, to a county website for county races, and a municipal website for municipal races. Not required of counties with fewer than 100,000 population, of cities with fewer than 2,500 population, or of any county or municipality that does not operate a website. Campaign finance reports where less than \$500 is spent are exempt from reporting requirements. SB 1024, sponsored by Senator L. Gray, was signed by the Governor on May 12, 2008.

### *Bills that Failed*

#### **HB 2305 RANKED CHOICE VOTING**

This bill would have established ranked choice voting. Also, the list of capabilities a voting machine or device must have would have been expanded to include implementing ranked choice voting when ranking for contests is possible. HB 2305, sponsored by Representative Sinema, failed to receive a hearing in the House Committee on Government.

### **HB 2364 ELECTION LAW AMENDMENTS**

This bill would have made several changes to election law, including changing the 4 permissible election dates per the consolidated election calendar to include the new date for primary elections (the 9th Tuesday before the general election - currently, the 8th). Also, it would have changed the time periods within which special elections (primary and general) to fill a vacancy in the office of representative in Congress election must be held. HB 2364, sponsored by Representative Crandall, failed to pass Senate Committee of the Whole.

### **HB 2385 LOCAL GOVERNMENT; ELECTION SIGNATURES**

This bill would have allowed a municipality to require that a candidate for mayor or other office nominated by a city at large obtain 1,000 signatures or 5% of the designated party vote in the municipality, whichever is less, but not more than 10% of the designated party vote in the municipality. HB 2385, sponsored by Representative Reagan, failed to receive a hearing in the House Committee on Rules.

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FACSIMILE 602-342-7601

April 16, 2008

The Honorable Jim Weiers  
Speaker of the House  
Arizona House of Representatives  
1700 West Washington  
Phoenix, Arizona 85007

Re: House Bill 2220; State Equalization Property Tax Repeal

Dear Speaker Weiers:

Today I vetoed House Bill 2220. The bill would have permanently repealed the state equalization property tax, the county-level property tax that funds local schools.

As you know, I approved a temporary three-year suspension of this tax in 2006. Consequently, Arizonans paid no state equalization property tax for tax years 2006 and 2007 and will pay no such tax for tax year 2008. The suspension was a fair and reasonable action in 2006, when the national economy was strong, our rainy-day fund was full and our tax revenues were sufficient to meet our State budget requirements. Today we find ourselves in a very different fiscal situation. As Representative Tom Boone and Senator Thayer Verschoor said in their letter to me of April 4, 2008, Arizona is facing a "budget shortfall approaching 20% of the budget in fiscal year 2009 . . . the largest proportional budget deficit of any state in the nation." Permanently repealing a tax that supports such basic needs as schools and education during a time of severe budgetary deficits would be the height of fiscal irresponsibility.

For these and other reasons, I have vetoed House Bill 2220. Let us continue our work developing a comprehensive, bi-partisan budget using all the fiscal tools available to us. Arizonans deserve our protection of basic needs like education.

Yours very truly,

Janet Napolitano  
Governor

JN:LK  
cc: The Honorable Timothy S. Bee

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July 7, 2008

The Honorable Jim Weiers  
Speaker of the House  
Arizona House of Representatives  
1700 West Washington  
Phoenix, Arizona 85007

Re: House Bill 2389; Misconduct Involving Weapons; Means;  
Transportation

Dear Speaker Weiers:

Today I vetoed House Bill 2389, a bill that would have allowed individuals to hide weapons in their vehicles without a concealed weapons permit. Law enforcement requested that I veto this bill, and for good reason. House Bill 2389 would have added to the level of uncertainty and danger law enforcement officers who make traffic stops already face in the line of duty. It would also deprive officers of the ability to confiscate concealed weapons from individuals who ignore the concealed weapons laws in transit.

For these and other reasons, I have vetoed House Bill 2389.

Yours very truly,

Janet Napolitano  
Governor

JN:LK/jm  
cc: The Honorable Timothy S. Bee  
The Honorable John Kavanagh

STATE OF ARIZONA  
JANET NAPOLITANO  
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April 29, 2008

The Honorable Jim Weiers  
Speaker of the House  
Arizona House of Representatives  
1700 West Washington  
Phoenix, Arizona 85007

Re: House Bill 2395; Driving; Boating; Under the Influence

Dear Speaker Weiers:

Today I vetoed House Bill 2395, the bill that proposed numerous changes to Arizona's driving and boating under the influence laws. One of the key changes would reduce the length of time a person must use an ignition interlock device after a conviction for driving while impaired by alcohol or drugs. House Bill 2395 would reduce that time period from 12 months to six months.

It has been less than a year since Arizona enacted the current interlock device law. I join with Mothers Against Drunk Drivers and Students Against Drunk Drivers in their belief that requirements to use ignition interlock devices have a deterrent effect on decisions to drive under the influence. Some disagree and believe the penalty is too harsh and the benefit to public safety is too low. No one can be sure because the law is so new. Under these circumstances, it would be premature to change the law, before we have had a chance to examine its effects.

For these and other reasons, I have vetoed House Bill 2395.

Yours very truly,

Janet Napolitano  
Governor

JN:LK/jm  
cc: The Honorable Timothy S. Bee

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May 20, 2008

The Honorable Jim Weiers  
Speaker of the House  
Arizona House of Representatives  
1700 West Washington  
Phoenix, Arizona 85007

Re: House Bill 2585; General Obligation Bond Requirements

Dear Speaker Weiers:

Today I vetoed House Bill 2585, which contains unnecessary and undesirable changes to the voter information pamphlets counties, cities, community college districts and school districts are required to publish in advance of general obligation bond elections. It also unnecessarily limits local options to refinance bonds.

Bond elections are an important financing tool for counties, cities, community colleges and school districts to fund their necessary capital improvements. The changes House Bill 2585 makes to voter information pamphlets obfuscate, rather than clarify, the statistical information provided to voters. Voters should make informed decisions based on information that is balanced, transparent and as neutral as possible. Moreover, House Bill 2585 would also unnecessarily restrict counties, cities, community college districts and school districts, and their taxpayers, from taking advantage of lower market interest rates by accelerating the repayment of general obligation debt and refinancing.

For these and other reasons, I have vetoed House Bill 2585.

Yours very truly,

Janet Napolitano  
Governor

JN:LKljm

cc: The Honorable Timothy S. Bee  
The Honorable Steven B. Yarbrough

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May 27, 2008

The Honorable Jim Weiers  
Speaker of the House  
Arizona House of Representatives  
1700 West Washington  
Phoenix, Arizona 85007

Re: House Bill 2629; Justification; Defensive Display of Firearm

Dear Speaker Weiers:

Today I vetoed House Bill 2629, a bill that would have allowed the introduction of firearms into what was up to then only a word fight. This is a dangerous escalation that would have put the public's safety at risk.

House Bill 2629 purported to create a new "justification" defense that would allow an individual who reasonably believes he is under threat of unlawful physical or deadly force, to display, take hold of and expose his firearm. House Bill 2629 is largely unnecessary because, with some exceptions, the current Arizona justification laws already allow a person to display, take hold of, expose and even discharge a firearm against another person if a reasonable person in his circumstances would believe he is under the threat of deadly physical force. The problematic new defense House Bill 2629 creates, however, is the ability to display, take hold of and expose a firearm when the situation is only a verbal dispute. Under current Arizona justification laws, a person is not justified in taking hold of their firearm if his fear is based only on words of the provocateur, with no related action.

There is a reason Arizona law does not allow a person in the heat of a verbal dispute, even when the exchange includes harsh words and threats, to take hold of his firearm. No one wants a war of words to escalate into a battle of bullets. This is why Arizona's law enforcement community opposes House Bill 2629. By allowing this kind of escalation, House Bill 2629 puts the public and its law enforcement officers at greater risk.

For this and other reasons, I have vetoed House Bill 2629.

Yours very truly,

Janet Napolitano  
Governor

JN:LK/jm

cc: The Honorable Timothy S. Bee  
The Honorable Russell K. Pearce

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April 29, 2008

The Honorable Jim Weiers  
Speaker of the House  
Arizona House of Representatives  
1700 West Washington  
Phoenix, Arizona 85007

Re: House Bill 2630; Concealed Weapons; Petty Offense

Dear Speaker Weiers:

At the request of Arizona law enforcement, I have vetoed House Bill 2630, which would have reduced the penalties for illegally carrying a concealed weapon without a permit from a class one misdemeanor to a petty offense and prevented law enforcement from confiscating the weapon from the violator.

As you know, House Bill 2630 is almost identical to last year's Senate Bill 1629, which I also vetoed. As I stated in my veto letter of May 16, 2007, lawful gun owners who wish to carry concealed weapons should comply with Arizona's concealed weapons laws and obtain the required permit. People who fail to do so are, by definition, lawbreakers in possession of deadly weapons.

As our law enforcement professionals will tell you, serious criminals, especially gang members, often carry concealed weapons without permits. Our law enforcement officers must have the full array of enforcement options to use against these violators, including the power to arrest the violator and confiscate his deadly weapon. Maintaining our current level of penalties promotes the safety of our citizens and law enforcement officers.

For these and other reasons, I have vetoed House Bill 2630.

Yours very truly,

Janet Napolitano  
Governor

JN:LK/jm  
cc: The Honorable Timothy S. Bee  
The Honorable Russell K. Pearce

STATE OF ARIZONA  
JANET NAPOLITANO  
OFFICE OF THE GOVERNOR MAIN PHONE: 602-542-4331  
1700 WEST WASHINGTON STREET, PHOENIX, AZ 93007  
FACSIMILE 602-342-7601

April 28, 2008

The Honorable Jim Weiers  
Speaker of the House  
Arizona House of Representatives  
1700 West Washington  
Phoenix, Arizona 85007

Re: House Bill 2807; immigration; local enforcement

Dear Speaker Weiers:

I have vetoed House Bill 2807, which would have mandated that Arizona counties, towns and cities participate in federal immigration law enforcement efforts and would have shifted the cost of training those local law enforcement officers away from the federal government to Arizona's state general fund. This bill is similar to Senate Bill 1306, which I vetoed in May 20, 2005. And for many of the same reasons, I am vetoing House Bill 2807 today.

House Bill 2807 is simply an unnecessary, unfunded mandate to law enforcement.

Let us start with the clear understanding that nothing in current law prevents Arizona's sheriffs and police departments from entering into agreements with federal immigration authorities to enforce federal immigration laws, provided they are given proper training. Many already have entered into these agreements on a voluntary basis. A legislative mandate to that effect is unnecessary.

In addition, House Bill 2807 is an unfunded mandate. The real impediment to cross training local law enforcement in federal immigration law enforcement efforts is the federal government's inability to meet the demand for training opportunities. In 2006, Congress added Section 287(g) to the Immigration Reform Act, giving the federal Department of Homeland Security the ability to train local law officers in the enforcement of federal immigration laws. While interest in these cross training programs was high, Congress appropriated only \$5.5 million in 2008 to maintain the entire nation-wide program. Demand for training has, predictably, significantly outstripped federal resources. Even now, the Arizona Department of Public Safety alone has a wait list of over 100 officers for cross training. Because House Bill 2807 requires the Arizona general fund to pay the training costs for all local law enforcement (not just for the Department of Public Safety) if federal funding is not available, Arizona tax payers would be required to pay an approximately \$100 million bill at a time we are facing significant budget shortfalls.

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Accordingly, for the reasons stated in my May 20, 2005 veto letter of Senate Bill 1306 and others, I have vetoed House Bill 2807.

Yours very truly,

**Janet Napolitano**  
Governor

**JN: LK**

cc: **The Honorable Timothy S. Bee**  
**The Honorable John B. Nelson**

STATE OF ARIZONA  
JANET NAPOLITANO  
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May 27, 2008

The Honorable Timothy S. Bee  
President  
Arizona State Senate  
1700 W. Washington  
Phoenix, Arizona 85007

Re: Senate Bill 1106; Concealed Weapons Permit; Renewal Option

Dear President Bee,

Today I vetoed Senate Bill 1106, which proposes to make concealed weapons permits, once obtained, valid for the entire lifetime of the permit holder, without renewal.

Under current law, concealed weapons permits are valid for five years and renewable. At renewal, the Arizona Department of Public Safety conducts a criminal background check of the applicant to ensure he or she is still eligible to carry a concealed weapon. The criminal background check is paid for, in part, by a \$43.00 renewal fee. Because Arizona requires this renewal and criminal background check, other states and the Federal Bureau of Investigation accept the Arizona concealed weapons permit in lieu of their own permits and procedures.

A lifetime permit would eliminate the periodic opportunity to conduct these criminal background checks, which are an important part of ensuring that only non-felons lawfully carry concealed weapons. The lifetime permit would also, ironically, make it harder for permit holders to carry weapons outside of Arizona and to purchase firearms from firearm dealers without also passing an independent Federal Bureau of Investigation background check.

More important, the concept of lifetime validity for a concealed weapons permit is unwise public policy. In Arizona, a food service worker license is valid for three years, after which every chef, waiter, bartender and dishwasher must take a new exam on food safety to renew his or her license. If we believe protecting the public from food poisoning

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**is important enough to require retesting and renewal, it is impossible to justify a lifetime permit for the carrying of a concealed weapon.**

**For these and other reasons, I have vetoed Senate Bill 1106.**

**Yours very truly,**

**Janet Napolitano  
Governor**

**JN:LK**

**cc: The Honorable Jim Weiers  
The Honorable Chuck Gray**

STATE OF ARIZONA  
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July 7, 2008

The Honorable Timothy S. Bee  
President  
Arizona State Senate  
1700 W. Washington  
Phoenix, Arizona 85007

Re: Senate Bill 1406; Municipal Development Fees; Procedures

Dear President Bee,

Today I vetoed Senate Bill 1406, which would have placed further restrictions on municipalities that seek to make developers of new growth assist in paying the public costs of growth through the use of development fees. Every legislative session, developers propose new procedural changes to the way municipalities may calculate, schedule or collect development fees. Rather than address these issues on a piecemeal basis as we have in the past, we should work on comprehensive procedures for the fair imposition of development fees. Such fees should create predictability for developers, provide needed public services more quickly and more equitably distribute the cost of new public services.

Arizona would benefit if an agreed upon, comprehensive approach to development fees would be considered during the next regular legislative session.

In the meantime, I have vetoed Senate Bill 1406. I look forward to working with all the interested parties as, together, we move forward.

Yours very truly,

Janet Napolitano  
Governor

JN:LK  
cc: The Honorable Jim Weiers

STATE OF ARIZONA  
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July 7, 2008

The Honorable Timothy S. Bee  
President  
Arizona State Senate  
1700 W. Washington  
Phoenix, Arizona 85007

Re: Senate Bill 1452; Homeowners' Associations; Foreclosures; Voting Rights

Dear President Bee,

Today I vetoed Senate Bill 1452, a bill that would have dramatically changed the voting rights of homeowners' association members in certain circumstances.

Members of homeowners' associations generally select their boards of directors and decide crucial decisions by majority vote. Senate Bill 1452 turns that well accepted tenet of representative governance on its head, giving the minority the majority power and stripping the majority of equal voting rights.

Under Senate Bill 1452, the minority members of a homeowners' association would be given control of the board of directors if the majority membership is owned by a party who acquired the lots in a settlement for unpaid property tax from the original master planned community developer. Despite owning the majority of the lots in the planned community, the replacement owner to the original master planned community developer would only be allowed to vote on the election of less than half of the members of the board of directors of the homeowners' association.

The members of any homeowners' association can opt-in to such uneven voting measures if they vote to amend their bylaws accordingly. Unilaterally imposing this change of a fundamental governance rule by statewide statute, however, is unnecessary and unwise.

For these and other reasons, I have vetoed Senate Bill 1452.

Yours very truly,

Janet Napolitano  
Governor

N: LK  
cc: The Honorable Jim Weiers  
The Honorable Ronald Gould