

LEGISLATIVE UPDATE– FEBRUARY 2010

The Arizona State Legislature convened on Monday, January 11, 2010 for the Second Regular Session of the 49th Legislature. As of January 23, there have been 601 House Bills and 193 Senate Bills have been introduced. (Hard to believe we need that many new laws!). Deadline for new bills to be introduced is February 1 in the Senate, and February 8 in the House.

Unlike last year, January was somewhat of a quiet month around the state capitol. Some good news, however, the state was able to sell some of its buildings, raising around \$750 million, which has been very helpful for the state's severe cash flow problem.

Once again, the state budget (which the constitution requires to be balanced every year) was estimated to be around \$2 billion in the red for the current fiscal year, which is already half over. Projections are that the budget for next fiscal year, which begins in July, will be over \$2 billion in the red as well. Thus, the biggest issue facing the legislature this year (again) will be to pass a balanced budget for next year.

This is an election year as well, so lots of political overtones (even more than usual) will be present. Governor Brewer is running for election to a full term, and will apparently have a contested Republican primary race (State Treasurer Dean Martin and Tucsonian John Munger). Democrat Attorney General Terry Goddard has announced his intent to run for Governor as well. U.S. Congressman John Shadegg has announced his retirement, prompting three state legislators and the Mayor of Paradise Valley to announce their intent to run for that office. Former Congressman J.D. Hayworth just resigned from his talk radio show, clearing the way for him to run for something (likely against U.S. Senator John McCain), so the fireworks should be interesting to watch! A few of the bills affecting the Engineering Industry that been introduced thus far:

House Bills:

HB 2001 Taxpayer Voluntary contribution; fund. Same bill was introduced two years ago, and did not pass. Would add a line to the state income tax form for those persons who feel they didn't pay their fair share of state taxes, and would like to contribute more. lol

HB 2063 Solar energy; permit fees. Same as HB 2329 last year that did not pass. Sets maximum fees that municipalities can charge for building permits for construction of solar energy systems.

HB 2145. County planning and zoning. Amends the monthly meeting requirements of county planning and zoning commissions, and temporarily suspends until July 1, 2015, the requirement in state statute that counties adopt new comprehensive plans. Estimated to save each county \$100,000.

HB 2153 Homeowners Associations; public roadways. Another failed bill from last year. Prohibits HOA's from having any control over usage of streets that have been dedicated to a municipality.

HB 2199 State contracts; participation goal; veterans. Same bill as last year. Would require the state DOA to establish a goal of awarding three per cent of all state contracts to Veteran-owned businesses.

HB 2215 Tax Assessment of retention basins. Same bill as previous years that did not pass. Would reduce to \$500 the property tax on retention basins.

HB 2218 Irrigation districts; contracts; certification board. Raises the threshold from \$10,000 to \$30,000 that irrigation districts can contract for goods or services without seeking competitive bids.

HB 2249 Municipal development fees; refunds. Requires cities and towns to refund development fees if the project for which fees have been collected has not been built within 7 years.

HB 2259 Development fees; proportional share. Requires that cities and towns that collect development impact fees charge no more for the new development than what existing residents pay.

HB 2267 Phoenix airport; study committee. Same bill as last year. Introduced by Tempe representatives. Would create a legislative study committee to study the feasibility of continued operation of Sky Harbor airport.

HB 2285 City building permit fee. Requires municipalities to itemize the charges for permit fees.

HB 2300 Driving on Highways; lane regulations. Same as HB 2193 from last year that did not pass. On highways with three lanes in one direction, requires semi-trucks to drive in right-hand lane.

HB 2310 Contracts; Construction; architect-engineer; proportional liability. Same bill as last year. Would strengthen existing indemnity laws regarding engineering contracts with government agencies, and would add clarifying language regarding those instances where the indemnification prohibition statute does not apply. Bill has ACEC support.

HB 2314 Energy policy study committee. Would establish a 21-member study committee, to examine all aspects of energy policy, and to develop and recommend state energy policies to promote and achieve a reliable, economical, and environmentally safe supply of energy for the state.

HB 2324 Grand Canyon airport special district. Would separate the Grand Canyon airport from ADOT's control, and allow it to operate as a special district, able to fund itself, including establishing fees, and selling bonds, etc.

HB 2338 Yellow lights; duration; photo enforcement. Would require that each leg of an intersection that has photo enforcement cameras have the same time duration for the yellow light.

HB 2355 Planned communities; energy savings devices. Bill sponsored Representative Sinema, the assistant minority leader in the House. Would prohibit HOA's from not allowing homeowners to install energy savings devices, including "coiled" fluorescent light bulbs, garage fans, vents, solar recharging devices, or clotheslines.

HB 2356 Green Buildings; recovery funding. Also sponsored by Rep. Sinema. Has been introduced for several years now. Would require all new state buildings, and reconstruction over a certain percentage, to comply with LEED green building certification.

HB 2371 Home Inspections. Would add swimming pools and spas to the list of items that must be inspected by home inspectors.

HB 2381 Renewable energy; legislative authority. Somewhat of a "turf battle" between the Legislature and the Arizona Corporation Commission, would establish the responsibility for establishing statewide energy policy at the Legislature, not with the Corporation Commission. Would also prohibit the state from establishing a specific percentage of power from utility companies be from renewable energy. In effect overturning the Corporation Commission renewable energy portfolio standard.

HB 2397 Development fees; codes; moratorium; repeal. Would repeal last years prohibition on cities and towns raising impact fees and/or changing or revising building codes through 2011.

HB 2422 Primitive roads. Introduced again this year. Would prohibit cities and counties from designating any roads as primitive roads if the road was opened after 1975.

HB 2451 Line extensions; utility infrastructure; charges. Similar to HB2381 in that it is apparently part of a turf battle between the Legislature and the Corporation Commission. Prohibits utility companies from charging customers for installing services up to 1000 feet in length, if the cost is less than \$10,000.

HB 2455 State Buildings; energy conservation standards. Would require all state buildings to reduce their energy use by 20% on or before July 1, 2016.

HB 2458 Home sales; water supply disclosure. Requires a "subdivider" who sells one or more lots in an area outside of an AMA to record a statement of water adequacy or inadequacy with the county recorder, and furnish this statement to all prospective buyers. "Subdivider" as defined in ARS 32-2101 does not appear to include professional registrants.

HB 2574 Renewable energy districts. Would allow the formation of improvement districts for the purpose of acquisition, installation and improvement of energy efficiency and renewable energy improvements and water conservation improvements, including solar energy systems

Senate Bills:

SB 1020 Government Service contracts; Arizona preference. Similar to bills from the last two years, this bill applies to cities, counties and the state, would require a government owner to award a contract for services to an Arizona entity if the bid price is within 5% of the out-of-state low bidder. These bills typically do not make it very far along through the process.

SB 1064 Construction sales tax; design-build. Introduced by Senator John Nelson, PE, this bill clarifies that design services are not subject to state taxes as part of a design-build project.

SB 1137 Department of transportation; vehicle right-of-way. Bill amends statutes having to do with taxes and the motor vehicle division. One provision allows the ADOT Director to create new divisions within ADOT, to reorganize ADOT, and to consolidate the Department.

SB 1141 CAGR; revenue bonding; sustainability policies. The Central Arizona Groundwater Replenishment District was created in 1993 as part of the Central Arizona Water Conservation District, which operates the CAP Canal. The CAGR is responsible for groundwater recharge and replenishment. This bill increases the revenue bonding authority of the CAWCD, authorizes the CAWCD to establish annual member dues to repay the revenue bonds, and makes other statutory changes. Same as HB 2448.

SB 1142 Renewable energy production tax credit. Provides for significant tax credits for utility level producers of renewable energy from wind, solar or biomass. Tax credits last ten years. Also HB 2241.

SB 1189 Admissibility of expert opinion testimony. Introduced by Senator Barbara Leff, bill attempts to define who is qualified as an expert in civil court cases, and those factors to be considered by a court on whether or not the testimony is admissible. ACEC is reviewing to see if any impact to members of our industry. Appears to be the same as 3 house bills, HB 2062, 2240 and 2492.