

STATE LEGISLATIVE UPDATE– MAY 3, 2010

The budget for the next fiscal year was enacted by the Legislature in March, and details have been summarized previously. Worth repeating, however, are details about Proposition 100.

Proposition 100, the temporary 1% sales tax increase, will go to the statewide ballot on May 18. Early mail-in ballots have already been sent out by the Elections department. If passed, the tax increase would begin June 1, 2010 and would be automatically repealed May 31, 2013. It is forecast that the temporary tax increase would raise about \$1 billion for each fiscal year. The revenue from the tax would go to the state general fund, but is specifically earmarked only for use as follows: 67% for public primary and secondary education, and 33% for Health and Human Services and Public Safety.

Because the tax increase is not statute, but rather a part of the state constitution, it could only be extended beyond the three-year life by another vote of the people. Read for yourself the exact wording, by using this link to the text of the proposition: <http://www.azleg.gov/legtext/49leg/6s/bills/scr1001s.pdf>.

Just in case Proposition 100 does not pass, the Budget that the Legislature passed in March included the following funding cuts to state agencies, in order to have a balanced budget. As you can see, the cuts would total nearly a \$ 1.0 billion, and would be a huge hit to education, public safety and healthcare:

AHCCCS	\$ 114.0 million
Community Colleges	\$ 13.0 million
Department of Corrections	\$ 63.0 million
Department of Economic Security	\$ 50.5 million
Department of Education (K-12)	\$ 428.6 million
Department of Health Services	\$ 40.0 million
Department of Juvenile Corrections	\$ 5.8 million
Courts System	\$ 10.4 million
Department of Public Safety	\$ 10.9 million
University System (NAU, U of A, ASU)	\$ 107.1 million

The Legislature adjourned the regular session on Thursday, April 29 at 11:07 p.m. The Governor has 5 days after the end of session to sign or veto a bill, or else it becomes law without her signature. The following is an update on the status of the bills ACEC tracked this year.

House Bills:

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. Bill passed both Houses, and was signed by the Governor into law on April 27, 2010.

HB 2153 Homeowners Associations; public roadways. Prohibits Homeowners Associations from having any control over usage of streets that have been dedicated to a municipality. Bill died in the State Senate without a hearing.

HB 2199 State contracts; participation goal; veterans. Would require the state DOA to establish a goal of awarding three per cent of all state contracts to Veteran-owned businesses. Bill died in House.

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. Passed both the House and Senate, but was vetoed by the Governor on April 26, 2010. In her veto message, the reason given for the veto was concern of the unintended consequences resulting from enactment of the bill in its current form. For example, it was unknown what effect the bill would have on property tax rates. It would also lead to significant additional work by each county assessor, and eventually would lead to an overall erosion of the property tax system in our state.

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. Bill passed both Houses, and was signed by the Governor into law on April 14, 2010.

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. Refunds would go to the "original" owner of the property or to the current owner if the "original" owner is not known. Bill died in the State Senate without a hearing.

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. Bill died in the House, without a floor vote by full House.

HB 2285 City building permit fee. Requires municipalities to itemize the charges for permit fees. Passed the House by a vote of 40 ayes and 18 nays, died in the Senate without a vote in committee.

HB 2300 Driving on Highways; lane regulations. On state highways with three or more lanes in one direction, this bill prohibits trucks with a gross vehicle weight in excess of 26,000 lbs. to drive in the left-hand lane. ADOT is required to erect signs where the lane restrictions are applicable. Bill passed both Houses, and was sent to the Governor for signature on April 29, 2010.

HB 2338 Yellow lights; duration; photo enforcement. ADOT is required to adopt a manual regarding traffic control devices. Cities and towns are required to adopt that manual, with modifications allowed by the local government. This bill requires the manual ADOT adopts to include the provision that traffic signal yellow light duration be a minimum of 3 seconds. The MUTCD recommends a range of between 3 and 6 seconds duration. The bill also requires that traffic signals must comply with the ADOT Manual (with the minimum yellow duration of 3 seconds) for any photo enforcement tickets to be valid. Bill passed both Houses, and was sent to the Governor for signature on April 27, 2010.

HB 2371 Home Inspections. Adds swimming pools and spas to the list of items that must be inspected by home inspectors. Passed the House by a vote of 52 ayes, 6 nays. Passed the House and Senate, and was signed into law by the Governor on April 23, 2010.

HB 2422 Primitive roads. Current law requires specifies that "primitive roads" must have been opened before June 13, 1975, were not constructed in accordance with County standards. ARS 28-6706 currently requires primitive roads to be posted with signs stating "Primitive Road, caution, use at your own risk. This surface is not regularly maintained." This bill allows designation of roads as primitive roads if the road was opened after 1975, was accepted for maintenance by the Board of Supervisors, but was not constructed to County standards. Passed the House and Senate, and was signed into Law by the Governor on April 28, 2010.

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. Passed the House by a vote of 47 ayes and 13 nays. Died in Senate without a committee hearing.

HB 2605 Subdivisions; acting in concert. Changes the definition in state statute of "acting in concert", having to do with relatives, friends and/or business associates working in collusion to circumvent subdivision regulations. Also would eliminate preliminary plat requirement for Counties for splits less than 10 lots. Exempts lots that are older than five years from being counted as a part of the overall number of splits that trigger the subdivision requirements. Passed House by a vote of 33 ayes to 23 nays. Died in Senate without a hearing.

HB 2625 STAN sub-account; city reimbursement. Provides that repayment for loans from the Statewide Transportation Acceleration Needs (STAN) fund that occurred before July 1, 2012 will not be required to be repaid. Bill appears to be a "sweetheart" deal, since the fiscal note attached to the bill specifies that it only applies to the Town of Queen Creek, and would amount to \$10 million that Queen Creek would not have to repay to the fund. Bill passed both Houses, and was sent to the Governor for signature on April 29, 2010.

HB 2627 County transportation excise tax; transit. Currently, Counties with a population of between 200,000 and 400,00 are prohibited from levying a County transportation excise tax. This affects 4 Counties, Mohave, Pinal, Yavapai and Yuma. This bill removes the prohibition, and allows any County, with voter approval, to levy a transportation excise tax. Bill passed both Houses, and was sent to the Governor for signature on April 29, 2010.

HB 2661 Statewide Water Augmentation authority; study. Would create a 15-member study committee to study water resources in the state and make recommendations to the Director of the Department of Water Resources, and to the Legislature. Bill passed both Houses, and was sent to the Governor for signature on April 29, 2010.

HB 2700 Solar Energy tax incentives; extension. Extends from 2011 to 2017 the deadline for solar energy tax incentives currently available. Bill passed both Houses, and was sent to the Governor for signature on April 28, 2010.

Senate Bills:

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. It was amended in the Senate to allow ADOT to spend up to \$10 million per year to apply for federal monies for transportation projects. However, that amendment was stripped off and deleted from the bill in the House. Bill passed both Houses, and was sent to the Governor for signature on April 23, 2010.

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. Bill passed both Houses, and was sent to the Governor for signature on April 29, 2010.

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. Bill died in Senate.

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. Changes the standard from the 1923 "Frye" standard, to the more current 1993 "Daubert" standard, which is currently used in Federal Court cases. Bill passed both Houses, and was sent to the Governor for signature on April 29, 2010.

SB 1356 Water bank; excess CAP Water. The Central Arizona Water Conservation District (CAWCD) was created in 1971 by the Legislature as a means of repaying the Federal Government for the reimbursable costs of construction of the Central Arizona Project (CAP). Then in 1996, the Arizona Water Banking Authority (AWBA) was created, as part of the CAWCD, to store or "bank" unused portions of Arizona's Colorado River allotment. This bill is an emergency measure that authorizes the AWBA to obtain and store excess CAP water that is made available to the Water Banking Authority. Bill passed both Houses, and was signed by the Governor into law on April 26, 2010.

SB 1359 Department of Water Resources; fund. The bill would create the Water Resources Fund, to consist of monies collected from existing fees, legislative appropriations, etc., along with monies now dedicated to the Dam Repair Fund. Appears to be a method to fund ADWR from water users rather through the state general fund. Bill passed both Houses, was sent to the Governor for signature on May 3, 2010.

SB 1406 Procurement; construction; specialized services. Revisions to the Alternative Procurement statutes developed by stakeholder group over the past few years, but which have failed to get passed. ACEC is supportive. Has to do with Design-Build, Job Order Contracting, and Construction Manager at Risk procurement. Bill passed both Houses, and was sent to the Governor for signature on April 29, 2010. Here is a link to the summary of this bill:

http://www.azleg.gov/FormatDocument.asp?format=print&inDoc=/legtext/49leg/2r/summary/h.sb1406_04-27-10_houseengrossed.doc.htm