



2011 NEW LAWS REPORT

Introduction

Welcome to the *New Laws Report* of the League of Arizona Cities and Towns for 2011. The *Report* is designed to serve as a guide to those enactments of the first regular session of the 50th Arizona Legislature that have demonstrable impacts on municipalities.

During the past session, 1,350 bills were introduced in the House and Senate. Of these, 386 passed the Legislature and were sent to the Governor, and 357 were signed into law. More than one-fifth of these enactments affect cities and towns and are summarized in the *Report*.

Scope and Use

This digest is intended only to identify and summarize those new laws with significant impacts on Arizona municipalities. It does not describe every provision of every law in detail, but it does provide a hyperlink to the chaptered version of each bill summarized. For a fuller understanding of new laws, readers are encouraged to review the exact language of their provisions, as well as relevant legislative history.

For those new enactments that modify current law, the *Report* makes no effort to describe the underlying law, other than to provide sufficient context for an understanding of the statutory modification. Furthermore, the *Report* focuses on only those new laws that have broad statewide applicability to cities and towns.

Effective Dates

Unless otherwise noted, the effective date of the new laws described in the *Report* is July 20, 2011. This date – 90 days after the conclusion of the legislative session – is the general effective date for all enactments that are passed without an emergency clause.

The *Report* does endeavor to identify effective dates that vary from the general effective date. Where appropriate, it also includes other statutory dates, such as repeal dates, implementation dates and deadlines.

Disclaimers

The *Report*, published as a service to the members of the League of Arizona Cities and Towns, does not necessarily identify every law with impacts on municipalities. It is neither designed nor intended to provide legal advice or counsel. It should be relied upon only as a reference tool and not as a comprehensive guidance document. In certain limited instances, the *Report* does highlight action items that should be considered by cities and towns. In no case, however, should the *Report* substitute for the independent judgment of your city or town manager or attorney.

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Part 1 – Courts, Criminal Justice and Law Enforcement

SB 1101 (protest activity; prohibition)

[Chapter 1](#)

Disruption of funeral services by picketing or other protest activity is an unlawful offense against public order (a class 1 misdemeanor).

It is unlawful to engage in activity undertaken to disrupt or disturb a funeral or burial service within 300 feet of the ritual. Such activity is prohibited beginning one hour before the service and continuing through one hour after the service.

Furthermore, a corporation or association is prohibited from causing protest activities designed to disrupt or disturb a funeral or burial service.

Effective Date: January 11, 2011

HB 2167 (dangerous drugs; definition; synthetic)

[Chapter 6](#)

The synthetic marijuana commonly known as “Spice” is added to the list of dangerous drugs subject to control under the Arizona Uniform Controlled Substances Act.

Effective Date: February 18, 2011

SB 1244 (parents’ rights; law enforcement investigation)

[Chapter 69](#)

The Parents’ Bill of Rights is amended to clarify that parental permission is not required for a political subdivision to make a video or voice recording of a minor if the recording is made by law enforcement officers in the course of an official investigation.

Effective Date: April 12, 2011

HB 2369 (DUI; work release)

[Chapter 91](#)

Existing law *allows* courts to use their discretion in granting a work release from jail for a first- or second-time DUI or extreme DUI (EDUI) offender for up to twelve hours a day and no more than five days a week. The new law *requires* courts to allow first- and second-time DUI and EDUI offenders to continue their employment or

schooling while serving out their jail sentence. Courts may deny work release upon a recorded finding of good cause. The new law also increases the number of days per week an offender may leave for work or school release from five days to six days.

HB 2444 (law enforcement officer discipline)

[Chapter 198](#)

The statutes governing the investigation and discipline of law enforcement officers are modified to add a number of requirements and provisos. Among other things, the new law:

- Specifies that the results of a polygraph examination cannot be the sole basis of a disciplinary action;
- Requires an employer to create an audio recording of any polygraph examination and to give a copy of the recording to the officer being examined;
- Allows the employer to require a law enforcement officer or probation officer to submit to a polygraph examination if, during an investigatory meeting, the officer makes a statement that contradicts previous statements and reconciliation of the differences is essential to conclusion of the investigation;
- Authorizes an investigation to extend past 120 business days as long as a good faith effort has been used to complete it in the allotted time and notice is provided to the officer. Exceptions and limitations concerning the 120-day period are specified;
- Requires the employer to give notice in writing to the employee concerning an intent to proceed with any penalty or disciplinary action; and
- Requires reversal of termination and compensation if an employee wins an appeal.

SB 1233 (peace officers; at will employment)

[Chapter 208](#)

Current law prohibits disciplinary actions against law enforcement officers without just cause. The newly enacted change clarifies that such prohibition does not apply to police chiefs or assistant police chiefs who serve as *at will* employees (persons who may be terminated at the will of the employer at any time, with or without cause).

SB 1235 (law enforcement officers; disciplinary procedures)

[Chapter 230](#)

A law enforcement officer facing disciplinary action can demand from his employing agency a list and summary of disciplinary action ordered by the agency against other officers of similar rank and experience who were accused of the same or similar violation within the previous two years. The employer has the option of providing copies

of case files of relevant disciplinary cases instead of summaries. If a change of hearing officer is requested by either the officer or the employer, and the employer is a county of fewer than 250,000 or a municipality of fewer than 65,000, a first request must be granted and the alternate hearing officer must be made available through an intergovernmental agreement with another jurisdiction. If the officer requested the change of hearing officer, the costs of procuring the alternate hearing officer shall be shared equally between the employer and the officer.

The new law also provides that, if a critical incident stress management team member acquires information in confidence in the course of the member's response to an incident, the information, with stated exceptions, may not be disclosed in a legal proceeding, trial or investigation.

The definition of *employee* in the existing whistleblower protection statutes is expanded to include municipal law enforcement officers.

SB 1057 (disciplinary action; law enforcement officers)

[Chapter 244](#)

The law permits a disciplined officer to bring an action in superior court for a new hearing concerning termination or to review the agency's file under certain specified conditions. Law enforcement officers subjected to disciplinary action without the establishment of just cause may recover all costs, including attorney fees, associated with proceedings to establish the officer's innocence. Monetary damages may be awarded by a court if it determines, by a preponderance of evidence, that the allegations were knowingly and intentionally filed without just cause. These damages cannot exceed the officer's combined wages and benefits lost as a result of the wrongful termination. The court shall also order the officer reinstated to the officer's previous position with the law enforcement agency.

HB 2658 (domestic violence review teams)

[Chapter 254](#)

Current law empowers a political subdivision (or a combination of political subdivisions) to establish a domestic violence fatality review team and provides statutory parameters for its operation. The new law expands the charge of such teams to include review of near fatal domestic violence incidents. A near fatal incident of domestic violence is defined as a domestic assault where the victim suffers life threatening injuries.

The list of statutory recipients of review team reports is expanded to include the Peace Officer Standards and Training Board and the State Domestic Violence Coalition.

HB 2355 (court surcharges)

[Chapter 260](#)

Under current law, courts are required to collect a 61% and 13% surcharge, or penalty assessment, for violations of motor vehicle statutes. The new law changes the term "penalty assessment" to "surcharge" in Titles 12 (Courts and Civil Proceedings), 28 (Transportation), and 41 (State Government). The bill also clarifies that the

surcharge is applied to the base fine or penalty, not to any other surcharge. Because the surcharge represents a percentage assessment, its application to the base fine only – not the base plus any other surcharge – could result in lower financial receipts for the collecting agency.

Action Required:

Municipalities may wish to modify official documents to conform with the new terminology.

HB 2477 (witness; representation; law enforcement officers)

[Chapter 301](#)

Law enforcement and corrections officers have a right to representation during interviews with an employer if the officer is a witness relating to an investigation that could lead to another officer's dismissal, demotion or suspension. The witnessing officer is also permitted to discuss testimony with the witness-officer's representative, although the unauthorized release of information is subject to disciplinary action.

HB 2613 (board; complaints; peace officer misconduct)

[Chapter 303](#)

The powers of the Arizona Peace Officer Standards and Training Board (AZPOST) are expanded with respect to peace officer misconduct. Under the new law, the AZPOST Board:

- May receive complaints of peace officer misconduct from any person, request law enforcement agencies to conduct investigations and conduct independent investigations into whether an officer is in compliance with statutory qualifications;
- May deny, suspend, revoke, or cancel the certification of an officer who is not in compliance with statutory qualifications;
- May receive a complaint of peace officer misconduct from the president or chief executive officer of a board recognized law enforcement association that represents the interests of certified law enforcement officers if the association believes that a law enforcement agency refused to investigate or made findings that are contradictory to *prima facie* evidence of a violation of statutory qualifications; and
- Shall, if the board finds that the law enforcement agency refused to investigate or made findings that contradicted *prima facie* evidence of a violation of statutory qualifications, conduct an independent investigation.

HB 2645 (firearms; rights restoration; peace officers)

[Chapter 304](#)

This new law permits a person ordered, found, or adjudicated to be a prohibited possessor of a firearm to petition the court to restore the person's right to own a firearm. The law details hearing procedures, factors to be

considered and appeal rights in connection with such a petition. Furthermore, the new law stipulates that, with certain exceptions, a retired peace officer may not be prohibited from carrying a firearm.

SB 1200 (driving under the influence; interlock)

[Chapter 341](#)

The law makes various changes to statutes pertaining to driving under the influence (DUI), the use of continuous alcohol monitoring (CAM) programs and ignition interlock devices (IID). DUI statutes will now apply to drugs listed in the criminal code, as well as to alcohol. Municipalities and counties are authorized to establish a CAM program for those convicted of DUI. Participants are required to pay costs of the program plus \$30 per month. The court may reduce these costs if the person cannot afford them. Minimum incarceration periods are required before a person is eligible for a CAM program. The bill changes the period of license revocation for a person convicted of DUI before the person is eligible for an IID. If an arrest warrant is issued as a result of failure to pay a fine, penalty or assessment, an additional assessment of \$125 is ordered.

Effective Date: January 1, 2012

SB 1469 (justification; use of force)

[Chapter 353](#)

The new law redefines elements of justification for the use of force in certain situations. It also establishes legal presumptions regarding the justified use of force. Among other things, the law redefines the presumption of justification for the defense of a home or occupied vehicle to encompass a situation in which the person reasonably believes that the threat or use of physical force or deadly force is immediately necessary.

Part 2 – Elections and Campaigns

SB 1512 (bond election; informational pamphlet)

[Chapter 72](#)

Current law requires that an informational pamphlet be issued in connection with bond elections. The pamphlet must provide examples of how the bond will impact the taxes for a \$250,000 home and a \$2.5 million commercial property. This measure requires the pamphlet to also provide an example of the impact on agricultural property valued at \$100,000. Additionally, the example value for commercial property is reduced to \$1 million.

SB 1412 (early voting; revisions)

[Chapter 105](#)

Cities and towns must provide a “tamper evident” envelope to early voters. The information provided to early voters must include a warning that it is a felony to offer or receive any compensation for a ballot. The new law broadens the classification of ballot abuse in several respects. Any person who turns in more than ten early ballots must provide photo identification; the elections officer must record and send the information from the ID to the Secretary of State within 60 days of the election.

SB 1282 (political committee registration; religious entity)

[Chapter 149](#)

Religious assemblies or institutions are exempt from campaign finance registration requirements if they do not spend a substantial amount of time or assets to influence any federal, state or local legislation, referendum, initiative or constitutional amendment.

SB 1471 (county election law amendments)

[Chapter 166](#)

This law requires a complete revision of the text of the affidavit accompanying an early ballot envelope. Additionally, it prohibits a person who has worked (either as an employee or volunteer) for a candidate, campaign, political organization or political party in a particular election from assisting any voter who needs assistance at the polling place for that election.

SB 1318 (city council; vacancy; appointment; election)

[Chapter 271](#)

The new law modifies the method of filling vacant seats on city and town councils in non-charter municipalities, based on when the vacancy occurs. If the vacancy occurs *more* than thirty days before the nomination deadline,

the appointment is until the next regularly scheduled council election. If the vacancy occurs *less* than thirty days before the nomination deadline, the appointment is for the whole length of the unexpired term.

HB 2500 (political signs; public right-of-way)

[Chapter 318](#)

The removal of political signs is prohibited during the period from 60 days prior to a primary election to 15 days after a general election (or to 15 days following a primary election for signs of candidates who lose the primary) if the following conditions are met:

- The sign is in a public right-of-way that is controlled or owned by that jurisdiction.
- The sign is not placed in a hazardous location that obstructs clear vision in the area.
- The sign is not in violation of the provisions of the Americans with Disabilities Act as defined by federal law.
- The sign has a maximum area of 16 square feet, if the sign is located in an area zoned for residential use, or the sign has a maximum area of 32 square feet, if the sign is located in any area other than land zoned for residential use.
- The sign contains the name and telephone number of the candidate or campaign committee contact person.

If a jurisdiction deems it an emergency matter, it may relocate an improperly placed sign, but it must notify the candidate or campaign committee within 24 hours of relocation. In the case of an improperly placed sign that does not constitute an emergency, the jurisdiction must notify the candidate or campaign. If the sign is not moved within 24 hours of notification, the jurisdiction may remove the sign but must retain it for 10 business days, during which time the campaign may retrieve the sign without penalty.

Municipalities may identify sign-free zones in areas of predominant commercial tourism. There may not be more than two such zones in a municipality and each zone shall not be larger than three square miles.

The law also provides that municipalities may ban placement of political signs on any structure owned by the jurisdiction. It further clarifies that a local government employee acting within the scope of his employment is not liable for injury caused by the failure to remove a sign, unless the employee intended to cause injury or was grossly negligent.

HB 2303 (voting centers; polling places)

[Chapter 331](#)

Counties are allowed to set up voting centers in place of, or in addition to, regular polling places. The election statutes are modified to clarify that precinct registers may be prepared and used in an electronic format.

HB 2304 (state elections; omnibus)

[Chapter 332](#)

This enactment effects numerous changes to state election laws that impact cities and towns. For example, petition circulators who are not Arizona residents must register with the Secretary of State (SOS) before circulating petitions. The process for such registration is to be specified in the Instructions and Procedures Manual prepared by the SOS.

Electioneering is allowed outside the 75-foot limit at early voting sites during the period of early voting. *Electioneering* and *electioneering materials* are now defined. Letters declaring nomination, rather than nomination certificates, are to be issued following primary elections (although in cities and towns where a candidate wins the primary a certificate of election will continue to be issued). A political statement of organization now must include a statement that the chairman and treasurer of the committee have read all of the laws relating to campaign finance and reporting. After the designation of an exploratory committee, a candidate may collect signatures on nomination petitions and receive contributions. For campaign ads that are broadcast on a telecommunications system, the disclosure of who paid for the ad may be printed rather than spoken. Corporations, limited liability companies or labor organizations may contribute to independent expenditure committees.

The new law eliminates the requirement that the SOS and the county recorder must order the examination of each signature on an initiative or referendum petition if the random sample of signatures projects that the number of valid signatures will be between 95% and 105% of the number required to qualify for the ballot. This means that if the random sample projects valid signatures less than 100% of the required amount, the measure does not qualify for the ballot and no further signature checking is required. For municipal initiative and referendum petitions, the functions of the SOS are performed by the city or town clerk.

Currently, an elected official must file a financial disclosure statement by January 31 of each year. The report is to include information from the previous calendar year. Consequently, under the current requirement, if a person's term of office ends in January, the person must wait for over a year to file the financial disclosure statement. The new law allows such a person to file a financial disclosure statement that includes the days the person served in January, by January 31 of that same month. This report is in addition to the regular report that covers the previous calendar year.

Action Required:

Local ordinances must be amended to apply these provisions to municipalities.

HB 2701 (secretary of state; database)

[Chapter 339](#)

The laws that allow electioneering outside of the 75-foot limit of the polls now apply to early voting sites as well, unless emergency conditions exist that prevent electioneering. Early ballot request forms and permanent early voting request forms must include as a return address the jurisdiction holding the election. Penalties are established for anyone collecting these forms and failing to forward them to the jurisdiction holding the election. Disclosures in campaign literature must now be in a prescribed format.

Part 3 – General Government

HB 2384 (abortion; public funding prohibition; taxes)

[Chapter 55](#)

Public monies or tax monies of a municipality (as well as any federal funds passing through the treasury of a municipality) shall not be expended or allocated for training to perform abortions.

The list of items an organization must provide to the Department of Revenue to qualify as a charitable organization for tax purposes is expanded to include a statement that the organization does not provide, pay for, promote, provide coverage for, or provide referrals for abortions.

Effective Date: December 31, 2011

HB 2490 (consumer incentives; food)

[Chapter 92](#)

This new law confers exclusive authority upon the state to regulate “consumer incentive items” in connection with their use in retail food marketing. A consumer incentive item is defined as a premium or prize associated with a marketed meal. Examples include toys, games, trading cards, licensed media characters, passwords for digital access, crayons and coloring placements. Municipalities are specifically prohibited from regulating such incentives.

SB 1460 (liquor omnibus)

[Chapter 165](#)

The law effects numerous changes to state liquor law. Provisions particularly affecting cities and towns include those that:

- Prohibit a city, town or county from limiting any right granted by a liquor license or specified in statute, though a municipality may enforce lawful zoning requirements;
- Prohibit a city or town from collecting any fee associated with the issuance of any supplemental licenses, sampling privileges and the original placement license.
- Establish that collection of a prohibited fee or tax is void and unlawful and that, for a five year period following collection of the fee, the collecting municipality shall reimburse the hospitality business for any reasonable expense incurred in collecting the unlawful tax or fee.

Under current law, if a city or town establishes or increases a discriminatory transaction privilege tax on hospitality industries (i.e. a tax that is higher than that imposed on other businesses), proceeds of the tax shall be used exclusively by the city or town for the promotion of tourism. The new law eliminates the exemption from this requirement that existed for cities and towns with populations fewer than 100,000.

SB 1306 (landlords; tenants; bedbug control)

[Chapter 191](#)

A municipality cannot establish ordinances or any other landlord or tenant requirements relating to bedbug control. It can, however, adopt requirements relating to proper disposal of bedbug-infested items.

HB 2705 (waste programs; general permits; fees)

[Chapter 220](#)

The emergency fee authority granted to the Arizona Department of Environmental Quality (ADEQ) for FY11 is extended for an additional fiscal year. Various statutorily established fees are repealed and ADEQ is granted rule-making authority to establish fees for its hazardous and solid waste programs. The new fees must be: in place by September 30, 2013; subject to public comment; and reviewed by the Joint Legislative Budget Committee.

Effective Date: The continued emergency fees are effective July 1, 2011.

SB 1357 (AHCCCS; missed appointments; provider remedy)

[Chapter 234](#)

The Arizona Health Care Cost Containment System (AHCCCS) may, subject to the approval of the Centers for Medicare and Medicaid Services, authorize political subdivisions to provide funding to AHCCCS to qualify for federal matching funds to provide AHCCCS coverage to Prop. 204-eligible populations (persons below the federal poverty level not eligible for Medicaid). The political subdivision may designate the providers or health plans as well as limit coverage.

Repeal Date: These provisions are repealed on October 1, 2013.

SB 1502 (fire districts; merger; consolidation)

[Chapter 274](#)

If any property owner whose property is located in a city or town requests in writing that the governing body of a fire or sanitary district amend the district boundaries to include that property owner's land, the governing body of the fire district or sanitary district may approve the boundary change *only if* the governing body of the affected city or town by ordinance or resolution has approved the inclusion of the property in the district.

HB 2193 (municipal water charges; responsibility)

[Chapter 279](#)

Applicable to residential property of four or fewer units, a municipality may not seek recovery of water and wastewater charges from anyone other than an individual who has contracted for the service and resides or has

resided at the service address. A property owner, an immediate family member of the person who does not reside at the property or any other entity, at its sole discretion, *may* contract for water and wastewater service with a municipality and shall provide payment for such services.

SB 1598 (cities; counties; regulatory review)

[Chapter 312](#)

Aggregates

This law requires that a general plan of a municipality include a land use element addressing sources of aggregates, as well as policies to preserve their development and avoid incompatible land uses. A person who participates in the public hearing on the adoption of the general plan may file a petition for special action in superior court to review compliance with this provision.

Public Works

Municipalities are required to provide notice and an opportunity for impacted utilities to comment on public works projects during their design phase. The purpose of this requirement is to eliminate the need or minimize the costs of facility relocation.

Regulatory Bill of Rights

The enactment includes a Regulatory Bill of Rights for cities, towns, counties and flood control districts. It largely mirrors regulatory provisions governing state agency action. The provisions are declarative and intended to delineate protections for the regulated community.

Inspections

In order to enter the premises of a regulated person, municipal inspectors must: present photo identification, state the purpose of the inspection and the legal authority to perform it; disclose inspection fees; provide the opportunity for an authorized on-site representative to accompany the inspector (except for food and swimming pool inspections); provide notice of various rights; and inform people if they are being recorded and that their statements may be included in the inspection report.

At the time of the inspection or within given time frames, the inspector must provide certain contact information. The inspector must obtain a signature of an appropriate person acknowledging receipt of the required information and either give the person a copy, transmit it to them electronically, or otherwise note that the information was refused.

The municipality must provide a copy, either physically or electronically, of the inspection report to a regulated entity. The report must delineate the deficiencies revealed by the inspection and may provide the regulated entity with the opportunity to remedy deficiencies in certain cases. Generally, if the deficiencies are corrected within 30 days of notification, the municipality must determine whether the regulated entity is in compliance. The municipality's decision is not appealable. The law specifies conditions under which the municipality must notify a regulated entity about actions resulting from the initial inspection.

The new inspection provisions only apply to inspections related to the issuance of a license or compliance with licensing laws and do not apply to inspections requested by the regulated person.

Licensing Time Frames

For any new type of license, municipalities must establish administrative and substantive review time frames for granting or denying a license. Existing license types must have time frames in place on or before December 31, 2012, with priority given to those license types with the greatest impact on the public. Multiple criteria must be considered when establishing these time frames. Licenses that are issued within seven working days and permits that expire within 21 working days are exempt from these requirements.

Each department may issue a notice of administrative completeness or deficiency for permits requiring approval from multiple departments. If an application is incomplete, then the city or town must include a comprehensive list of the specific deficiencies. Such notification suspends the administrative time frame until the deficiencies are corrected.

If a municipality does not respond to an applicant within the administrative time frame, the application is deemed administratively complete and proceeds to substantive review. During the substantive review, a municipality may make one comprehensive request for additional information, although individual departments may make requests as well. The municipality and the applicant may mutually agree to allow the municipality to make additional requests for information. These requests suspend the substantive review time frame until the information is received.

The municipality and the applicant, by mutual agreement, can extend the substantive time frame, although extensions may not exceed 25% of the overall time frame. When an application is denied, the denial must include reasons for the denial, with specific references to the statutes, codes or substantive policy statements that serve as the basis for the denial, as well as an explanation of the applicant's rights to appeal and the process for filing the appeal.

Any municipality that does not issue or deny a license within the provided time frame must refund any fees, waive any outstanding fees associated with the application and continue processing the application. The refund must be paid within 30 working days after the timeframe expires and a city or town cannot require that the applicant request the refund as a condition for its remittance.

Miscellaneous

Municipalities must base licensing decisions on specific statutes, rules, ordinances or codes rather than any general grant of authority. Municipalities must avoid the duplication of laws and avoid dual permitting. License applicants must be provided with certain information, including: the steps necessary to obtain the license; the applicable time frames; municipal contacts and websites for assistance; and notice that the applicant may receive clarification from the municipality regarding the application of specific laws.

Each municipality must establish an annual directory of the relevant material covering applicable ordinances, codes and substantive policy statements.

City or town councils may receive complaints regarding ordinances, codes and substantive policy statements, or related practices, which they may review and act upon.

A person may request that a municipality clarify its interpretation or application of a statute, ordinance, code or authorized substantive policy statement regarding license procurement. The request must contain information specified in the new law. The municipality may meet with the person and must respond within 30 days of the request with a written explanation of its interpretation or application as it relates to the specific request. The municipality must also provide an opportunity to meet with the person to discuss the explanation. The municipality may change its explanation to adjust for changes in the applicable laws or court decisions.

Effective Date and Deadlines:

The licensing time frames for existing licenses must be established before January 1, 2013. The provisions specifically related to inspections are effective July 1, 2012.

SB 2102 (license eligibility; authorized presence)

[Chapter 314](#)

This law requires an individual to provide documentation of citizenship or alien status that contains a *photograph* of the individual in order to work in the service industry. It further stipulates that an individual does not need to provide documentation of citizenship or alien status for the purpose of obtaining a license to work in the service industry if *all* of the following apply:

- The individual is a resident of another state;
- The individual holds an equivalent license in another state and that license is the same type of license being sought in this state; and
- The individual seeks the Arizona license to comply with Arizona law and not to establish residency in the state.

SB 1465 (valid identification; consular cards; prohibition)

[Chapter 325](#)

The state and its political subdivisions are prohibited from accepting a consular identification card issued by a foreign government as a valid form of identification.

SB 1334 (hunting within city limits)

[Chapter 349](#)

Municipalities shall not enact any ordinance or regulation limiting the lawful taking of wildlife during open season established by the Game and Fish Commission, unless the ordinance is consistent with state law and rules adopted by the Commission. Municipalities can adopt an ordinance prohibiting the discharge of a weapon within one-quarter mile of an occupied structure.

SB 1361 (fire districts; joint powers authority)

[Chapter 350](#)

This new law allows municipalities, counties and fire districts to form separate legal entities to provide fire protection and related services. The governing body of this new entity is to be composed of elected officials from the governing bodies of the affected political subdivisions. Powers, obligations and limitations of the new entity are defined.

The law specifies that the common powers of the contracting parties may include fire protection, the preservation of life, and the provision of emergency medical services and ambulance transportation services.



Part 4 – Labor and Retirement

SB 1403 (mandatory project labor agreements; prohibition)

[Chapter 23](#)

Agencies and political subdivisions of the state are prohibited from requiring a project labor agreement as a condition of a public works contract. “Project labor agreement” means any pre-hire, collective bargaining, model construction or similar type of agreement that establishes the terms and conditions of employment on a construction project and that is entered into with one or more labor organizations, employees or employee representatives.

SB 1614 (state budget procedures; 2011-2012)

[Chapter 26](#)

The ASRS employer contribution rate decreases from 50% to 47% of the total ASRS contribution, while the employee rate increases correspondingly.

Effective Date: [July 1, 2011](#)

HB 2584 (workers’ compensation; directed care)

[Chapter 93](#)

A pilot program is established to determine if self-insured public sector entities can contain costs and improve health care and return-to-work results through a directed care and medical management program. The pilot will involve a self-insured county insurance pool and a city with a population of more than 150,000 persons.

The Industrial Commission of Arizona (ICA) will select the pilot city, which is authorized to begin the program between January 1, 2012 and January 1, 2013, subject to approval by the ICA. The pilot city must report on the program two years after its inception. The program, including provision of benefits, concludes on December 31, 2014. The pilot city is not exempt from any other procurement requirements for procuring a medical network for direct care.

HB 2617 (workers’ compensation; settlement of claims)

[Chapter 139](#)

An injured worker may waive future supportive medical maintenance benefits by entering into a final settlement agreement with an employer or insurance carrier subject to approval of the Industrial Commission of Arizona (ICA). The employer must submit a summary of all reasonably anticipated future supportive medical maintenance benefits and the projected cost of the benefits to the employee for review and to the ICA for inclusion with the final settlement agreement filed with the ICA. The employer must inform the attending physician of the approval of a final settlement agreement if the final settlement agreement terminates the employee’s entitlement to supportive medical maintenance benefits. Unless supportive medical maintenance benefits rendered before the date of the fi-

nal settlement are subject to a dispute or payment for the treatment that was included in the final settlement agreement, the employer remains responsible for treatment payments not covered by the final settlement agreement.

SB 1365 (paycheck deductions; political purposes)

[Chapter 251](#)

The new law prohibits deductions from an employee's paycheck for political purposes (as defined in the act) unless the employee provides written or electronic authorization on an annual basis. If a deduction is made for multiple purposes, the employer shall obtain a statement from each entity to which the deductions are paid indicating that the payment is not used for political purposes or a statement that indicates the maximum percentage of the payment that is used for political purposes. The employer shall not deduct any payment beyond that specified for nonpolitical purposes without the annual written or electronic authorization of the employee.

The statute establishes penalties for the knowing violation of its terms and specifies paycheck deductions that are exempt, including: a single deduction for nonpolitical purposes; deductions for savings or charitable contributions; deductions for employee health care, retiree or welfare benefits; deductions for state, local or federal taxes; and deductions for contributions to a separate segregated fund prescribed by federal or state law that is not deemed to be for political purposes.

The law does not apply to public safety employees (including peace officers, fire fighters, correction officers, probation officers and surveillance officers) who are employed by the state or any political subdivision.

A payroll deduction authorization is rescinded when an employer receives the employee's written notice of resignation. The employer has one pay period to process the rescission.

Effective Date: The law applies to payroll deductions made after October 1, 2011

HB 2024 (ASRS; amendments)

[Chapter 277](#)

The measure enacts numerous changes to the Arizona State Retirement System (ASRS). Of particular interest to municipalities, the new law:

- Makes changes to the Long-Term Disability Plan;
- Clarifies the definition of *compensation* for service purchases;
- Conforms the City of Phoenix and City of Tucson service credit transfer statutes to mirror Public Safety Personnel Retirement System transfers;
- Allows the ASRS to intercept monies due from an employer to any department or agency of this state for any amounts due to the ASRS;

- Clarifies that a natural or adopted child of any age who is disabled qualifies for the enhanced survivor benefit calculation;
- Clarifies the period for which a member may receive service for a military call-up;
- Extends the period for service-related hospitalizations from one to two years; and
- Clarifies that a member who is not currently working for an employer and who is receiving differential wage payments is not considered as having a severance from employment.

HB 2476 (workers' compensation; certain diseases; exposure)

[Chapter 317](#)

Under existing law, an employee must, in order to establish a *prima facie* workers' compensation claim involving exposure, report in writing to his employer the details of exposure to methicillin-resistant staphylococcus aureus (MRSA), spinal meningitis or tuberculosis. The new law increases the deadline for this report from ten days to thirty days after a possible significant exposure. Also, claims involving MRSA must now be diagnosed within 15 days of filing the report instead of within 10 days of the exposure.

HB 2541 (employee drug testing; medical marijuana)

[Chapter 336](#)

Cities are covered by employer immunity provisions relating to drug and alcohol impairment testing. Employers may access the Department of Health Services database of medical marijuana users to verify the registration ID card of an employee or a job applicant who has received a conditional offer of employment.

Action Required:

The protections afforded in this law apply only if an employer has established a drug testing policy and initiated a testing program. Now that cities are included in the law, such policies and programs should be considered.

Effective Date: April 12, 2011

HB 2616 (workers' compensation; controlled substances)

[Chapter 338](#)

The new law provides that an employer, insurance carrier or the Industrial Commission of Arizona may request from a physician treating a workers' compensation patient information relating to the prescription of certain controlled substances, including a description of the measures that will be implemented to monitor and prevent abuse, dependence, addiction or diversion by the employee. An interested party (as statutorily defined) may also request that the physician ask the Arizona State Board of Pharmacy for the employee's controlled substance prescription information.

An employer, carrier or the Industrial Commission of Arizona may request a change of physician if the physician does not provide the requested information. An employer or carrier is not liable for bad faith or unfair claims processing for actions that are consistent with these provisions.

SB 1264 (workers' compensation; reasonable accommodations)

[Chapter 345](#)

This law stipulates that if an employer has made reasonable accommodations under the Americans with Disabilities Act, wages payable for a modified job position shall be included in the determination of any temporary partial or permanent partial earning capacity, notwithstanding that the modified position is not available in the open competitive labor market. Additionally, a report justifying proposed statutory changes must be submitted to the Joint Legislative Audit Committee if legislation: mandates that an insurer or self-insured employer deem that a disease or condition has arisen out of employment (including establishing a presumption of compensability); or substantially modifies a statute that establishes a presumption of compensability.

SB 1317 (PSPRS; CORP; EORP; administration)

[Chapter 347](#)

The measure contains numerous changes to the administration of the three pension systems managed by the Public Safety Personnel Retirement System (PSPRS).

For PSPRS, the definition of *compensation* is expanded to include compensatory time used by an employee in lieu of overtime not otherwise paid by an employer and to exclude unused compensatory time. The number of days allotted for the transfer of employer and employee contributions to PSPRS is increased from 5 to 10 working days. Failure to properly transfer contributions results in a penalty of 10% per year, compounded annually, for each day past the allotted time frame. PSPRS is authorized to pursue delinquent payments (plus interest) through court action against an employer, or by deducting the payments from other monies, including excise revenue taxes.

The local boards of PSPRS and the Corrections Officer Retirement Plan (CORP) that have not yet adopted rules for adjudication must use the uniform rules issued by the PSPRS fiduciary counsel for resolving disputes. The local boards are additionally required to provide PSPRS with minutes from local board meetings.

With regards to CORP, the Elected Officials Retirement Plan and PSPRS, the board must now be notified before it will pay the subsidy to an employer providing health and accident insurance to a retired member. The subsidy applies solely to the retiree's former employer and does not apply to a retired member or survivor of the system who is reemployed and who participates in health care coverage provided by the member's or survivor's new employer.

SB 1609 (retirement systems; plans; plan design)

[Chapter 357](#)

The law effects a number of changes to the Arizona State Retirement System (ASRS), Corrections Officer Retirement Plan, Elected Officials Retirement Plan (EORP) and Public Safety Personnel Retirement System (PSPRS).

All State Pension Systems

If a member is convicted or pleads no contest to a felony and the crime was committed in the course of the member's employment, the court is required to order termination of the membership and forfeiture of the member's rights and benefits. The member will still receive contributions, plus interest, minus any benefits already paid out. The member is ineligible for any future membership in a state pension plan. The court may award an amount of the forfeiture to a spouse, dependent or former spouse.

Members wishing to purchase prior qualified public and military service must have at least 10 years of credited service. The service purchase is capped at 60 months each for public and military service.

The Defined Contribution and Retirement Study Committee is established. The committee consists of the State Board of Investment, six legislators and one trustee each from ASRS and PSPRS. The committee must: evaluate the enrollment of new hires in (and the transfer of existing members to) a defined contribution system; address the definition of "compensation" and how it relates to salary spiking; examine the benefits of local boards versus one large employer group; and review the procedures used by local boards for granting disability. The committee must meet twice, issue an interim report before the end of the year and submit a final report by December 31, 2012.

ASRS (current and future members)

As of July 1, 2012, if a retired member returns to work in an ASRS covered position, the employer is required to pay an alternate contribution rate (ACR). The ACR will be determined annually by the actuary and will cover the deficit payment of the total contribution, except that the ACR will have a 2% minimum contribution and cannot exceed the employer's regular contribution to ASRS.

ASRS (members hired on or after July 1, 2011)

Rather than the current 85-point system, normal retirement will occur at 60 years of age with 25 years of service or at age 55 with 30 years of service.

PSPRS (current and future members)

Beginning with FY12, contribution rates for employees will increase. The rate schedule is 8.65% for FY12, 9.55% for FY13, 10.35% for FY 14 and 11.05% for FY15. For all subsequent fiscal years, the contribution rate will be 11.65% or a split of 1/3 for employees and 2/3 for employers, whichever is lower. The employee contribution rate, however, cannot be below 7.65%.

If a retired PSPRS member returns to work in a PSPRS covered position, the employer is required to pay an alternate contribution rate (ACR). The ACR will be determined annually by the actuary and will cover the unfunded liability portion of the total contribution, except that the ACR will have an 8% minimum contribution.

The Deferred Retirement Option Plan (DROP) program will undergo some programmatic changes. Members that are DROP-eligible as of January 1, 2012 will see no changes to DROP. Members that become DROP-eligible after that date will be able to enter the DROP program, but the interest of the member's DROP account is equal to the performance of the fund, with a minimum interest of 2% and a maximum of the actuarial assumed earnings rate. Additionally, the member must continue to make regular, non-refundable employee contributions while in DROP.

The law changes the methodology for allocation of cost-of-living adjustments (COLAs). As of May 31, 2011, excess investment earnings will no longer flow into the COLA reserve. The new method for determining whether a COLA is paid is effective on July 1, 2013. The maximum amount of the COLA will now be tied to funded status. No COLA is paid if the system is below 60% funded. If the system is between 60-64% funded, the COLA maximum is 2%. If the system is between 65-69% funded, the COLA maximum is 2.5%. If the system is between 70-74% funded, the COLA maximum is 3%. If the system is between 75-79% funded, the COLA maximum is 3.5%. If the system is funded at 80% or higher, the COLA maximum is 4%. COLAs can only be paid if the fund earned more than 10.5% for the prior fiscal year. Money not paid out for COLAs reverts back to the pension fund.

PSPRS (members hired on or after January 1, 2012)

Normal retirement will occur after the member has achieved 25 years of service and reached age 52.5. The final compensation will now be based on the average of the highest five consecutive years of compensation. The pension amount for a normal retirement is 62.5% of the member's final compensation. This percentage increases by 2.5% for each additional year of service and is capped at 80%. The percentage modifier is decreased by 4% for each year under 25 years of service.

If a member leaves the system, then the member can only receive his or her contributions, plus interest and minus any benefits already received.

In order to receive a COLA increase in any given year, the member or survivor of the member must be at least 55 years of age and currently receiving benefits. If the member or survivor is under 55 years of age, the person is COLA-eligible if the person has been receiving an accidental or catastrophic disability or Killed-in-Action survivor benefit for the two preceding years.

Members may no longer elect to participate in DROP.

EORP (current and future members)

Beginning in FY12, contribution rates for employees will increase. The rate schedule is 10% for FY12 and 11.5% for FY13. For all subsequent fiscal years, the contribution rate will be 13% or a split of 1/3 for employees and 2/3 for employers, whichever is lower. However, the employee contribution rate cannot be below 7% for employees and 10% for employers.

If a retired elected official returns to work in an EORP-covered position the employer is required to pay an alternate contribution rate (ACR). The ACR will be determined annually by the actuary and will cover the unfunded liability portion of the total contribution, except that the ACR will have a 10% minimum contribution.

The COLA allocation method is revised. As of May 31, 2011, excess investment earnings will no longer flow into the COLA reserve. The new method for determining whether a COLA is paid goes into effect on July 1, 2013. The maximum amount of the COLA will now be tied to funded status. No COLA is paid if the system is below 60% funded. If the system is between 60-64% funded, the COLA maximum is 2%. If the system is between 65-69% funded, the COLA maximum is 2.5%. If the system is between 70-74% funded, the COLA maximum is 3%. If the system is between 75-79% funded, the COLA maximum is 3.5%. If the system is funded at 80% or higher, the COLA maximum is 4%. COLAs can only be paid if the fund earned more than 10.5% for the prior fiscal year. Money not paid out for COLAs reverts back to the pension fund.

EORP (members hired on or after January 1, 2012)

Normal retirement will occur after the member has reached age 65 and achieved 5 years of service or age 62 with 10 years of service. The final compensation will now be based on the average of the highest five consecutive years of compensation within the last 10 years of service. The pension amount for a normal retirement is 3% of the final compensation multiplied by the years of credited service and is capped at 75%.

Eligible surviving spouses will now receive 50% of the elected official's pension, unless the elected official elects a higher survivor benefit when he or she retires, with the member's pension reduced accordingly.

Disability pensions are modified such that an elected official receives 75% of the member's compensation with 10 or more years of credited service. Elected officials with between five and ten years of service receive 37.5%, and elected officials with less than five years receive 18.75% of the member's compensation.

If a member leaves the system, the member can only receive his or her contributions, plus interest and minus any benefits already received.

In order to receive a COLA increase in any given year, the member or survivor of the member must be at least 55 years of age and currently receiving benefits.

Beginning on December 31, 2015, the Legislature may authorize one-time benefit increases after an analysis by the Joint Legislative Budget Committee.

Action Required:

Based on actuarial projections from PSPRS, the changes contained in this legislation will only partially mitigate the funding shortfalls predicted for PSPRS and EORP, so employer contribution rates will most likely continue to increase (albeit less drastically) in the next five years. With the implementation of an ACR, employers should be aware that when hiring a retiree to work, savings realized through such practices may no longer be as dramatic as before. Both ASRS and PSPRS will be contacting employers regarding the implementation of pension legislation passed this session.

Effective Date:

The provisions solely affecting new hires in PSPRS-managed systems are effective January 1, 2012. Changes in the treatment of ASRS new hires are retroactive to July 1, 2011. The ACR goes into effect for PSPRS plans on July 20, 2011, but is delayed until July 1, 2012 for ASRS.

Part 5 – Land Use and Development

HB 2153 (municipalities; counties; fire sprinklers; code)

[Chapter 7](#)

Municipalities are prohibited from requiring fire sprinklers in a single family detached residence or any residential building containing no more than two dwelling units. Municipalities are also prohibited from imposing any monetary penalty on a homebuilder or homeowner for not having sprinklers. Ordinances adopted prior to December 31, 2009 are not affected by these prohibitions.

SB 1242 (tax deed land sales)

[Chapter 148](#)

The process for selling property that is held by the State for nonpayment of taxes is expanded to allow cities, towns, counties and special taxing districts to make an offer on such properties if the property is to be used for a public purpose related to flood control or transportation.

SB 1525 (city; town; development fees)

[Chapter 243](#)

The measure makes numerous changes to the statutes governing municipal development fees, infrastructure improvement plans and fee studies. Current statute prescribes that a municipality may assess development fees to offset costs associated with providing necessary public services to new development if the fees result in a beneficial use to the development and the monies received are used only for an authorized purpose. These development fees must be: proportionate to the burden imposed on the municipality; based on items contained in a community's Infrastructure Improvements Plan (IIP); and calculated using a fee study conducted by a professional consultant. Any monies received from development fees are required to be used to provide the same category of services for which the fees were assessed.

The comprehensive new law places limits on the items defined as "necessary public services" for which impact fees can be assessed. It requires municipalities to prepare new IIPs and conduct new fee studies by August 1, 2014. The new definitions go into effect January 1, 2012.

The following items are the major changes contained in the new law. Among other things, it:

- Allows continued assessment and collection of current impact fee schedules to pay debt service on existing bonds for projects currently underway, even if the fees would no longer be allowed after the effective date of the bill.
- Maintains the phrase "necessary public services" in statute; a new definition, however, narrows the permissible uses of impact fees to address concerns regarding improper use of fees for general government

purposes, “exotic” facilities (i.e. parks over 30 acres or libraries over 10,000 square feet) and other uses, while preserving settled expectations with regard to core health and safety capital infrastructure facilities.

- Limits development fees to the proportional share of the cost of new infrastructure that is attributable to new development, and prohibits increasing the level of service that is provided to existing residents. It also requires development fees to be assessed in service areas within which there is a substantial nexus between the necessary public service and new growth.
- Clarifies that offsets against impact fees need only be provided for taxes that are applied to the capital costs of infrastructure. Between June 30, 2011 and July 31, 2014, a municipality cannot increase its construction sales tax rate to an amount greater than its general transaction privilege tax (TPT) rate. (Existing rates above the TPT rate can continue in effect.) After August 1, 2014, the differential portion of a discriminatory sales tax on new construction must be credited as an offset in the calculation of the fee amount, regardless of its actual use.
- Clarifies that credits against impact fees are only due when a developer pays for (or is required to provide) infrastructure in an IIP for which development fees were assessed, including a facility that was added to replace or substitute for other infrastructure in an IIP.
- Requires impact fees to be assessed against residential, commercial and industrial users, but continues to allow differential impact fee rates to be adopted for residential, commercial and multi-family construction.
- Specifies that a municipality may not waive development impact fees unless it provides reimbursement to impact fee accounts for the waived fees.
- Creates new public notice and hearing procedures for assessing, adopting, and amending development fees, with fees tied to the IIP in lieu of an independent fee study. Existing fee studies and plans will need to be replaced using the new system no later than August 1, 2014, or a municipality will be unable to continue to collect fees.
- Allows cities and towns to change their IIPs without going through the public process if the changes will not affect the level of service in a service area, or will not result in a fee increase of more than 5%.
- Requires the IIP to: identify all capital projects that are the subject of development impact fees; disclose existing facilities, required upgrades, and other costs of existing facilities not associated with new development; identify offsets; and include a professionally prepared fee study that establishes the development fees necessary to assess the appropriate level of costs to new development for each permitted infrastructure item.
- Requires a refund to the current property owner of certain impact fees if the infrastructure that is the subject of a development fee is not built within 10 years (or the time frame identified in the IIP) or 15 years for water and wastewater projects. A refund of the “savings” amount is required if actual costs are more than ten percent lower than the costs estimated in the IIP.
- Requires either the creation of an advisory committee to provide input on the adoption and administration of impact fees or a biennial audit of a municipality’s impact fee program.

- Changes the “grandfathering” provision to apply for 24 months after issuance of the first building permit for residential construction, or upon final approval for commercial, industrial or multi-family construction. Indexing provisions are eliminated.
- Creates new definitions of “development,” “service areas” and “service units.”
- Impact fee implementation timeline summary:
 - o Prior to adoption or amendment of a development impact fee, adopt or update the land use assumptions and IIP for the designated service area. (This must be done at least every five years.)
 - Post the proposed plan on the municipality’s website or the website of the League of Arizona Cities and Towns at least 60 days before a public hearing on the plan.
 - Conduct a public hearing at least 30 days before the adoption or update of the plan.
 - Approve or disapprove the plan within 60 days after the public hearing and at least 30 days prior to the next public hearing to adopt the new fee schedule.
 - o Provide at least 30 days’ notice of the intent to assess a development fee. Notice must be posted on the municipality’s website or on the website of the League of Arizona Cities and Towns.
 - o Following the 30-day notice period and at least 30 days prior to the proposed date of adoption, conduct a public hearing on the proposed new development fee.
 - o Within 60 days following the public hearing, either adopt or reject the new impact fee (note: fee adoption cannot be implemented as an emergency measure).
 - o The new fee goes into effect no earlier than 75 days following its adoption by the city or town council.

Action Required:

There are a number of actions that must be taken as the bill goes into effect. The following steps are those required in the near term.

As of January 1, 2012, discontinue collection of impact fees for purposes no longer allowed.

Review and update IIPs and authorize a new fee study to be conducted by qualified professionals by August 1, 2014.

Appoint an advisory committee by the time the municipality is required to provide public notice of its intent to adopt or update an IIP and fee study OR take action to declare that the municipality will choose the option to conduct a biennial audit of the impact fee program.

Make note of the new notice requirements listed above regarding the intent to adopt a new IIP and fee study, including timelines and public posting requirements.

NOTE: The League will be preparing a model ordinance that can be used as a guideline for compliance with the new provisions of this bill.

Implementation and Compliance Dates:

The bill has a number of dates for various provisions to take effect. This summary provides the key implementation dates:

- The effective date of the bill, including new definitions, the grandfathering provision and crediting and offset provisions, is January 1, 2012.
- The current development impact fee rate freeze ends on December 31, 2011.
- Impact fees cannot be collected after January 1, 2012 for items not included in the new definitions unless those items are financed with bonds or other financing mechanisms. If existing development fees are pledged to repay debt service for infrastructure items financed before June 1, 2011, then the existing development fees can continue to be collected until the existing debt is paid off.
- Municipalities have until August 1, 2014 to adopt new IIPs and fee studies. Impact fees cannot be charged by any municipality after that date without complying with these provisions. During that period, existing impact fees that fit within the new definitions can also be pledged to debt service (and will be thereafter protected), provided that the facilities for which they are used were included in an IIP by June 2011.
- Refund provisions are effective against fees paid on or after August 1, 2014 (fees must be spent or facilities constructed within 15 years for water and wastewater projects and within 10 years for all other projects).
- Between June 30, 2011 and July 31, 2014, a municipality cannot increase its construction sales tax rate to an amount greater than its general TPT rate (existing rates above the TPT rate can continue in effect). After August 1, 2014, the differential portion of a discriminatory new construction sales tax must be counted as an offset in the calculation of the fee amount, regardless of its actual use.
- Money collected for newly prohibited purposes must be spent within the same general category of necessary public service for which it was collected by January 1, 2020. If not spent by that date, it must be distributed evenly among the categories of permitted infrastructure improvements.
- The advisory committee must be appointed by the time that the municipality is required to provide public notice of its intent to adopt or update an IIP and fee study under the new statute; alternatively, the municipality can conduct a biennial audit.

HB 2005 (subdivisions; acting in concert)

[Chapter 328](#)

For any subdivision that consists of ten or fewer lots, a city or town council *may* expedite the processing of a preliminary plat or waive the requirement for such a preliminary plat altogether. For subdivisions of ten or fewer lots, councils *may* reduce infrastructure standards or requirements proportional to the impact of the subdivi-

sion. Requirements for improved dust-controlled access and minimum drainage improvements are not to be reduced or waived.

Effective Date: September 30, 2011

SB 1333 (cities; towns; deannexation; incorporation)

[Chapter 348](#)

Cities and towns currently have the ability to approve or disapprove incorporation efforts that occur within a certain distance of the city or town border – six miles for cities and towns with populations of 5,000 or more and three miles for those with populations under 5,000. For Cochise, Coconino, Mohave, Pima and Yavapai Counties, this bill limits that authority in two ways for ten years:

- Incorporation proposals with populations of 15,000 or more are *not* required to receive approval from any existing city or town within those affected counties , if the proposed area has an existing governing board (such as a special taxing district or homeowners' association)
- Incorporation proposals for areas with populations under 15,000 are still required to receive approval from an existing city or town within the range mentioned above. If a city or town of 5,000 or more does not approve a proposed incorporation effort, however, the proposed incorporation effort may proceed after six years, provided that the area proposed for incorporation has not been annexed.

Part 6 – Record Keeping and Transparency

SB 1123 (state library and archives amendments)

[Chapter 18](#)

This law contains several provisions to facilitate the integration of Arizona State Library, Archives and Public Records (ASLAPR) into the Office of the Secretary of State (SOS). ASLAPR was established as part of the SOS in 2009. Among other things, the law requires municipalities to submit a list of all essential public records in their custody to the Director of ASLAPR once every five years.

Current law permits any city or town to implement a program of digital reproduction in connection with the protection of public records but requires the municipality to acquire approval of the Director of ASLAPR before implementing such a program. The new law clarifies that ASLAPR approval is only required when a municipality is creating a digitizing *program*, not for individual instances of digitization.

Action Required:

Every two years, cities and towns must provide ASLAPR with the contact information for the individual designated to manage their public records.

SB 1153 (city auditors; confidential information)

[Chapter 74](#)

A municipality may, by ordinance, allow the municipality's auditor to examine the minutes of executive sessions of the council or a public body established by the municipality. Working papers and audit files are not public records, but any audit reports prepared for or presented to a municipality are subject to a public records request.

HB 2572 (government expenditure database; transparency; CAFR)

[Chapter 119](#)

Requirements for the Arizona Department of Administration transparency website are changed. Specifically, the database must now include the information found in a Comprehensive Annual Financial Report (CAFR) that has been produced by a certified public accountant or a licensed public accountant who is not an employee of the local government. The report must be in accordance with generally accepted auditing standards and contain financial statements that are in conformity with generally accepted accounting principles. If a municipality has a CAFR that has been presented with a Certificate of Achievement for Excellence in Financial Reporting by the Governmental Finance Officers Association (GFOA), posting that CAFR to the database satisfies the expenditure reporting requirements. Qualifying municipalities without websites may post the necessary information on the website of the League of Arizona Cities and Towns.

Action Required:

Municipalities must determine whether to pursue GFOA certification for their CAFR to comply with the statute or post the CAFR and provide the required expenditure and revenue information.

Implementation Date: Local government websites must be online by January 1, 2013

HB 2336 (city tax code; official copy)

[Chapter 129](#)

The Department of Revenue (DOR) will maintain the official copy of the Model City Tax Code (MCTC) and post it on DOR's website. Changes to the MCTC must be made to the official copy within ten days after approval from the Municipal Tax Code Commission. Additionally, within ten days after passing an ordinance changing a tax rate, a municipality must notify DOR of the change and the change must be reflected in the MCTC. The League of Arizona Cities and Towns will continue to maintain its website for the MCTC.

Implementation Date: July 1, 2012

HB 2422 (local government budgeting; posting; publication)

[Chapter 155](#)

Municipalities must prominently post on their websites revenue and expense estimates and adopted budgets for the last five years. These documents must be posted within seven business days of their final adoption. Municipalities without websites shall utilize the website of the League of Arizona Cities and Towns.

SB 1230 (business services; secretary of state)

[Chapter 343](#)

Among other things, this law transfers responsibility for an interactive online directory containing codes, rules, ordinances and statutes from the Office of the Secretary of State to the Government Information Technology Agency (GITA). GITA will provide direction as to what information is required from municipalities.

Implementation Date: The database must be established by December 31, 2015.

Part 7 – Taxes, Budget and Finance

HB 2552 (agricultural property tax classification; equine.)

[Chapter 8](#)

For purposes of property tax classification, the definition of *agricultural real property* is expanded to include property used for horse breeding, raising, boarding, training or rescue facilities. Municipalities may see a fiscal impact depending on the current classifications within their boundaries.

SB 1612 (2011-2012; general appropriations)

[Chapter 24](#)

This law is the enactment of the general appropriations or “feed” bill. It specifies amounts appropriated to individual state agencies and programs, as well as the revenue sources for those appropriations. The only direct and substantial impact to municipalities is a reduction of \$39.1 million to the city and town portion of the Highway User Revenue Fund. \$12.8 million of this amount is diverted to the Department of Public Safety and \$26.3 million to the Motor Vehicle Division.

SB 1624 (budget reconciliation; environment; 2011-2012)

[Chapter 36](#)

This enactment of a budget reconciliation bill includes appropriations related to the State’s environmental responsibilities. It includes a mandatory \$7 million annual contribution from all cities and towns to the Department of Water Resources. The \$7 million contribution will be divided among cities and towns based solely on 2010 Census figures.

SB 1160 (city sales tax; residential rental)

[Chapter 40](#)

Municipalities are prohibited from imposing or increasing transaction privilege taxes on the rental of residential property unless the increase is approved by the voters at a regular municipal election.

The new law does not apply to health care facilities, long-term care facilities or hotel, motel or other transient lodging businesses.

Applies Retroactively to: December 31, 2010

SB 1165 (municipal taxes; auditors and collectors)

[Chapter 66](#)

Municipalities are prohibited from employing auditors on a contingent fee basis for auditing transaction privi-

lege tax levies, or from entering into contracts with a third party for collection, administration or processing of transaction privilege taxes. Contracts for such services entered into on or before January 1, 2011, are not affected, although contract renewals are prohibited.

Under the law, municipalities *may* contract with the State or a political subdivision for the collection, administration or processing of transaction privilege or affiliated taxes levied by the city or town.

Under the new law, self-collecting cities *may* contract with a third party solely for the collection of delinquent transaction privilege or affiliated taxes for which a liability has been established.

SB 1166 (municipal tax exemption; commercial lease)

[Chapter 144](#)

This law prohibits municipalities from levying taxes on income derived from commercial leases in those instances where at least 80% of the voting shares of a lessor corporation and its lessee corporation are owned by the same shareholders.

HB 2341 (taxes; aircraft; personal property)

[Chapter 300](#)

Aircraft, navigational and communication instruments, and accessories and related equipment sold to foreign governments and used within Arizona are exempt from sales and use taxes. This same property is currently exempt from taxation if used outside of Arizona.

HB 2202 (department of revenue closing agreements)

[Chapter 316](#)

Under the provisions of the State's Taxpayer Bill of Rights, the Arizona Department of Revenue (DOR) is authorized to determine if taxpayer noncompliance with tax obligations is the result of either an extensive misunderstanding or a misapplication of the statutes governing state tax laws. In order for an extensive misunderstanding or misapplication to occur, DOR must determine that more than 60% of the taxpayers in an "affected class" have failed to properly account for their taxes because of the same misunderstanding or misapplication. For cities and towns, this clarification applies to sales tax by defining an affected class as those taxpayers in the same industry code within the North American Industrial Classification System or taxpayers that directly compete with each other. Currently, DOR must hold a public hearing to gather information about an extensive misunderstanding or a misapplication of the statutes governing state tax laws. The new law requires DOR, within 60 days of its determination, to notify attendees of the required public hearing and to publish a public notice on its website stating whether relief will be granted to the affected class.

HB 2236 (sharing revenue information; political subdivisions)

[Chapter 329](#)

Municipalities may participate in the Department of Revenue liability setoff program.

SB 1226 (levy limit override; city; town)

[Chapter 342](#)

Currently, counties and community college districts have the ability to establish a special secondary property tax, if their respective governing boards determine that the primary property taxes will not produce a sufficient amount of revenue to the county or community college district. If this determination is made, a county or community college district may adopt a resolution requesting that the voters approve a secondary property tax levy. The new law extends this authority to a city or town with a population of at least 25,000 but not more than 40,000. The adopted levy must be in place for at least two years but not more than seven years. This new authority has a narrow window and requires that an election approving the secondary levy be held on or before November 6, 2012 and is repealed by December 31, 2012.

Part 8 – Transportation, Motor Vehicles and Traffic Enforcement

SB 1147 (motor vehicle safety monitoring equipment)

[Chapter 64](#)

The list of exemptions from statutory regulations prohibiting materials on vehicle window glass is expanded to include safety monitoring equipment (and “driver feedback”) that is mounted on the windshield near the rearview mirror or where the rearview mirror would commonly be positioned if the motor vehicle is without one.

HB 2003 (emergency response services fees; prohibition)

[Chapter 82](#)

Counties and municipalities are prohibited from charging fees or seeking reimbursement directly or indirectly for providing police, fire or other emergency response services at the scene of a traffic accident or in the investigation or preparation of a report of the accident. Exceptions include charges for:

- Services provided outside of Maricopa County;
- Services provided pursuant to intergovernmental agreements;
- Damages to property of the county, city, or town;
- Extraordinary emergency services required as a result of negligence or intentional misconduct in the use, storage, or transportation of hazardous substances or hazardous waste;
- Ambulance services provided by a county, city, or town;
- Emergency response in flood areas and driving under the influence;
- Environmental cleanup costs as required by state or federal law; and
- Public records.

HB 2209 (safety standards; light rail systems)

[Chapter 88](#)

Existing law requires the Arizona Department of Transportation to establish and enforce safety standards for light rail transit systems in counties with populations exceeding 1.5 million persons. The new law applies this same requirement to street car systems and lowers the county population threshold (for both light rail and street car systems) to 500,000.

The law also provides that departmental information related to the safety oversight of light rail transit and street car systems (in counties exceeding a population of 500,000) is a matter of public record.

SB 1375 (livery vehicles; taxis; limousines; regulation)

[Chapter 104](#)

This law establishes exclusive state jurisdiction and preempts municipal regulation of livery vehicles, taxis and limousines. An exception for public airport operators provides that they may establish the number of livery vehicles, taxis and limousines that may conduct business at the airport and that they may establish more restrictive requirements for the conduct of that business at the airport. The law further establishes additional statewide requirements for the operation of livery vehicles, taxis and limousines.

SB 1133 (approaching stationary vehicles; yield right-of-way)

[Chapter 131](#)

The new law requires a driver who approaches a stationary vehicle displaying alternately flashing lights or warning lights to change lanes into a lane not adjacent to the stationary vehicle, or if changing lanes would be impossible or unsafe, to proceed with due caution and reduce the speed of their vehicle. The law specifies penalties for non-compliance.

HB 2523 (violations; motor vehicles; license suspensions)

[Chapter 286](#)

Under current law, one condition of the crimes of *causing death by use of a vehicle* and *causing serious physical injury by use of a vehicle* is that the person causing death or injury does so while he is not allowed to operate a motor vehicle. The new law expands this condition to include the circumstance in which the person drives with a revoked or suspended license resulting from failing to appear in court more than once for violating a statutory provision relating to transportation.

SB 1398 (moving violations; assessment; equipment; enforcement)

[Chapter 308](#)

In addition to eliminating the *state* photo radar enforcement system, this law also requires all law enforcement agencies to inform any recipient of a photo radar citation that the recipient is not required to identify the driver or respond to the citation if it was not properly issued. Similarly, the recipient of a photo radar notice of violation is not required to identify the driver or respond to the complaint.

A new supplemental \$13 assessment is imposed on every traffic fine. Of this amount, \$4 is deposited into the Border Security and Law Enforcement Subaccount in the GITEM Fund and \$4 is distributed to the agency that issued the citation. Collections are primarily supplemental monies for officer safety equipment.

Action Required:

Municipalities may need to reprint their bond cards for traffic infractions as well as rewrite their photo radar citations.