

# **Government Reform Committee**

Senator Frank Antenori, Chairman



**Bill Boyd, Research Analyst**

**Courtney Pigaga, Intern**

# GOVERNMENT REFORM COMMITTEE

## LEGISLATION ENACTED

### proposed rules; acceptable data (S.B. 1193) – Chapter 322

S.B. 1193 requires an economic, small business and consumer impact statement to include a description of any data on which a rule was based with a detailed explanation of how the data was obtained and why the data is acceptable.

The legislation also requires the following, effective July 1, 2013: 1) an action to review a final administrative decision to be commenced by filing a notice of appeal rather than a complaint; and 2) a notice of appeal to identify the final administrative decision sought to be reviewed and include a statement of the issues presented for review.

### state poet laureate; establishment (S.B. 1348) – Chapter 325

S.B. 1348 establishes the office of the State Poet Laureate, the State Poet Laureate Fund (Fund) and the State Poet Laureate Nomination Committee (Committee) under the Arizona Commission of the Arts (Commission). The Governor is to appoint one person to serve as the State Poet Laureate, within sixty days of receiving a ranked list of three nominees from the Committee.

The legislation specifies the requirements of each nominee, prescribes the duties of the State Poet Laureate, and requires the Commission to pay the costs and expenses of the State Poet Laureate from the Fund.

### free exercise of religion; contracts (S.B. 1365) – Chapter 326

S.B. 1365 defines exercise of religion as the ability to act or refusal to act in a manner substantially motivated by a religious belief, whether or not the exercise is compulsory or central to a larger system of religious belief. The legislation prohibits the government, which is defined to include all courts and administrative bodies or entities under the jurisdiction of the Arizona Supreme Court, from denying, revoking or suspending a person's professional or occupational license for certain reasons and specifies that those actions are not considered unprofessional conduct. The legislation also prohibits the government from denying a person an appointment to public office or to a board, commission or committee based on a person's exercise of religion.

S.B. 1326 asserts that having sincerely held religious beliefs is not a defense to and does not authorize any person to engage in sexual misconduct, criminal conduct, conduct that is prohibited under the United States Constitution or this state and does not authorize any teacher to engage in sectarian instruction or authorize any person to engage in conduct that violates the Emergency Medical Treatment and Active Labor Act.

### reviser's technical corrections; 2012 (S.B. 1423) – Chapter 66

Makes necessary technical changes to the 2012 version of the Arizona Revised Statutes.

drug lab remediation; investigators (S.B. 1438) – Chapter 327

S.B. 1438 requires a person convicted of a violation regarding clandestine drug laboratories (drug labs) to pay a \$15 assessment for deposit in the Technical Registration Fund (Fund) and establishes guidelines and penalties for the remediation of property that has been used as a drug lab. The bill expands the requirements for the content of a notice of removal (notice) to include a statement that indicates that an owner of real property who knowingly allows a posted notice to be removed is subject to a civil penalty for the first offense and a class 5 felony for a subsequent offense, and that a person other than the owner who disturbs the notice is subject to a class 5 felony. Upon determining that a posted notice of removal is missing, the Board of Technical Registration (Board) may repost the site, impose a civil penalty on the real property owner, or criminally prosecute the real property owner for second or subsequent violations.

The legislation allows a county, city or town to apply for funds from the Technical Registration Fund (Fund) after remediating real property, and directs the State Board of Technical Registration to place a lien on remediated real property to replenish monies in the Fund.

S.B. 1438 also establishes several offenses such as knowingly occupying an un-remediated property and selling items from the contaminated portions of a property as a class 5 felony.

residential construction; fall protection (S. B. 1441) – Chapter 86 E

An emergency measure that establishes construction employee fall protection standards and requirements.

homeowners' associations; review; construction (S.B. 1476) – Chapter 313

Prohibits homeowners' associations (HOA) from being authorized to charge a transfer fee to an escrow agent, and requires the chairperson of a design review committee, an architectural committee, or a similar committee for a planned community to be a member of the board of directors.

S.B. 1476 requires an HOA that has enacted specific guidelines for construction on main residential structures, when expecting a member to pay a security deposit to secure completion of a construction project or compliance of approved plans, to place the deposit in a fiduciary trust account (account). The cost of the account must be shared equally between the member and the HOA and if the project is abandoned, the HOA board of directors may determine the use of any deposit monies.

The legislation requires the HOA or design review committee to hold a final design approval meeting with the member or member's agent and, upon plan approval, to provide written acknowledgment that the approved plans, including amendments, are in compliance with all of the rules and guidelines and that the refund of the deposit requires that construction is completed according to the approved plans.

Requires the HOA to provide at least two on-site formal reviews with the member or member's agent in attendance and to provide a written report specifying deficiencies, violations or unapproved variations within 30 business days after the formal reviews. The HOA may either hold the deposit monies for 180 days or until a receipt of construction compliance is received, whichever is less, before releasing the monies to the member. If the construction is in compliance, the HOA must provide a written report within five days after the second formal review and release the deposit monies to the member.

road enhancement improvement districts (NOW: maintenance records; taxis and limousines (S.B. 1480) – Chapter 263

Requires owners of livery vehicles, taxis or limousines to include, at a minimum, information regarding routine brake and tire inspections performed by a qualified or professional motor vehicle mechanic in all maintenance records.

government budget reconciliation; 2012-2013. (S.B. 1527/H.B. 2866) – Chapter 298

SEE THE APPROPRIATIONS COMMITTEE.

county officers (H.B. 2048) – Chapter 37

Exempts county officers from requirements regarding the filing of appointments with the office of the county recorder and repeals legislation that requires a county recorder to keep a blotter. Prohibits a nonconsensual lien from being recorded unless it is accompanied by a court order.

license eligibility; authorized presence (H.B. 2070) – Chapter 234

Expands the list of acceptable documentation for verifying a person's authorized legal presence for licensing purposes to include any other license that is issued by the federal government, any other state, a state agency or a political subdivision of Arizona that requires proof of citizenship or authorized legal presence for issuance.

powers; board of supervisors (H.B. 2122) – Chapter 199

Permits a county board of supervisors to contract with a government agency to provide constable services at fees less than those authorized by statute. Establishes guidelines and procedures for a county regarding interior inspections of individual residential rental properties.

probation officers; witness; representation (H.B. 2215) – Chapter 201

Allows a probation officer designated by an employer as a witness in another officer's misconduct investigation to have a representative present during the interview, subject to specified restrictions. Designates the information learned from the interview as proprietary and confidential, and specifies circumstances under which the information is no longer confidential. The witness may discuss the interview with the representative and the representative's legal counsel, but the employer may discipline the witness or the representative for releasing the information to anyone else without authorization.

marijuana; transfer for value; presumption (NOW: cities; counties; regulations) (H.B. 2350) – Chapter 205

Requires a city, town or county to post a capital improvement plan on its website annually, containing all scheduled public works projects. Allows a utility to request that a city, town or county annually provide a copy of its plan and provide notice of any updates to the plan.

state agency fee commission (H.B. 2399) – Chapter 72

Requires the Governor to appoint a legislative member as the chairperson of the State Agency Fee Commission (Commission) and another Commission member as the vice-chairperson. Adds to the purview of the Commission by including the review of any state agency whose executive is an elected official, the Arizona Supreme Court and the Arizona Court of Appeals. Modifies the requirements of the Commission's annual report and allows the Commission to analyze and discuss the current process for increasing fees and make recommendations to improve that process.

~~CORP; pension buyback payments~~ (NOW: special audit; Pima county) (H.B. 2408) – Chapter 120

Directs the Auditor General to complete a special audit of the 1997, 2004, and 2006 Pima County general obligation bond programs within six months of the general effective date.

large-scale computing systems (H.B. 2412) – Chapter 161

Requires the Arizona Department of Administration (ADOA) to implement a study of the state's current use and reliance on large scale computing systems (Systems) and the potential cost savings of employing other Systems and making more public documents available on the internet. Directs the ADOA to report its findings, recommendations and priorities but allows the ADOA to withhold certain sensitive or confidential information.

~~concessionaire loans; restrictions~~. (NOW: written communication; electronic delivery; definition) (H.B. 2417) – Chapter 224

Permits governmental agencies, when required by law to communicate with a person in writing or by mail the ability to use a secure electronic delivery service. Communications associated with elections are exempt from this legislation.

state employee suggestion program; awards (H.B. 2464) – Chapter 358

SEE THE APPROPRIATIONS COMMITTEE.

homeowners' associations; conflicting enactments (H.B. 2471) – Chapter 242

Corrects conflicting enactments relating to for rent, for lease, and political signs for planned community or condominium associations.

~~campaign finance; threshold amount; report~~ (NOW: exemptions from punitive damages) (H.B. 2503) – Chapter 333

H.B. 2503 exempts a manufacturer, service provider or seller (manufacturer) from liability for exemplary or punitive damages alleged to be caused by a product if the product was produced, sold or represented according to terms established by a government agency and the product, activity or service (product) complied with laws in effect at the time the product left the control of the manufacturer.

building code; exception (H.B. 2561) – Chapter 123

Exempts a public school district-owned building in a county with a population of more than 750,000 but less than 2,000,000 persons from fees related to the building permit process. A school

district-owned building is required to be built according to code and the district is responsible for any fee associated with a fire code in effect where the public school district-owned building is to be located.

~~technical correction; valuation; personal property~~ (NOW: real estate; public reports) (H.B. 2611) – Chapter 245

Exempts a subdivider from disclosing specific items to the Real Estate Commissioner (Commissioner), except those required by law. Permits the Commissioner to allow the developer to outsource and pay for the cost of physical inspections with the approval of the Department of Real Estate.

local government budgets; posting; contents (H.B. 2621) – Chapter 126

SEE THE APPROPRIATIONS COMMITTEE.

road enhancement improvement districts (H.B. 2651) – Chapter 104

Allows a county board of supervisors to establish a road enhancement improvement district governed by an elected board of directors. Includes guidelines for the process of conversion from a county improvement district to a road enhancement improvement district.

~~cities; alarm licenses; reciprocity~~ (NOW: alarm business; alarm agent; certification) (H.B. 2748) – Chapter 341

Preempts the licensure, certification or registration of alarm businesses and alarm agents and authorizes the Arizona State Board of Technical Registration (Board) to regulate alarm businesses and alarm agents beginning May 1, 2013. Appropriates \$180,000 from the Technical Registration Fund, for start up and operating costs incurred by the Board for the certification of alarm businesses and alarm agents.

The legislation requires the Board to issue certificates, valid for two years, to alarm companies and alarm agents beginning May 1, 2013, and prohibits a person from operating an alarm business, beginning October 1, 2013, unless the person obtains an alarm business certificate.

Alarm businesses must obtain a separate certificate for each business name used for business or advertising except that one certificate may be used for two businesses with the same ownership.

Each controlling person of an alarm business must submit a completed fingerprint card and a fingerprint background check fee to the Board, and the Board is required to keep and maintain the fingerprint card for as long as the person is the controlling person of the alarm business. The Board must conduct a criminal background check for each controlling person of the alarm business before certification and again each subsequent year.

H.B. 2748 requires each alarm agent to apply for an alarm agent certification or renewal certification card from the Board, and requires the Board to issue or deny an alarm agent certification or renewal certification card within ten business days after receiving the application. An applicant is required to pay a fee determined by the Board, and submit a completed fingerprint card and a fingerprint background check fee to the Board in order to obtain an alarm agent certificate. A person is prohibited from working as an alarm agent until the application is processed and approved unless under the direct supervision of a certified alarm agent.

The Board is required to deny an application for certification if a controlling person or alarm agent has been convicted of offenses specified in the legislation and allows a applicant who is denied to request a hearing.

redistricting commission; open meeting law (H.B. 2807) – Chapter 131

Expands the definition of *public body* to include all commissions and other public entities established by the Arizona Constitution or by way of ballot initiative.

**LEGISLATION VETOED**

political signs; hazardous locations (S.B. 1200) – VETOED

Stipulates that a city, town or county must notify a candidate or committee in writing and refer to the particular conditions of a specific sign and location if the city, town or county determines that a sign is hazardous. Allows a candidate to attach a sign no more than thirty-two square feet in area to a state highway or route right of way fence.

The Governor indicates in her veto message that S.B. 1200 does not restrict political sign placement on Arizona's busiest highways, which could lead to public safety dangers, and that this was a provision that was expressly removed from previous bills. The Governor also indicates that the allowance given to remove political signs on a public right-of-way is broadly written and contrary to the First Amendment rights this bill attempts to protect.

counties; purchases; local dealers (H.B. 2495) – VETOED

Allows a county purchasing agent to award a contract to a local dealer in preference to any competing, non-local dealer if the estimated cost of the contract is over \$50,000 and the competing bid, quality and suitability considered, is less than five percent lower.

The Governor indicates in her veto message that H.B. 2495 could result in unintended consequences if signed into law. The bill does not address that application of local preference through an emergency or sole source procurement and is silent on contracts that are shared by other jurisdictions or through cooperative procurements. Further, the definition of *local dealer* could cause unfair treatment to those businesses headquartered outside the county line, but with offices and employees located within the county boundaries.

condominiums; planned communities; rental properties (H.B. 2513) – VETOED

Permits an owner within a homeowners' associations (HOA) to use their property as a rental property, and allows an owner to designate a third party to act as the owner's agent on all matters relating to the HOA. The bill specifies information regarding a tenant that must be disclosed to the HOA and allows an HOA to charge a condominium owner no more than \$25 for each new tenancy.

The Governor indicates in her veto message that H.B. 2513 would result in confusion for association boards and property management companies because it is unclear what is permitted or prohibited in terms of renting and the information that must provided to an association regarding an owner's renter. The Governor also indicates that the \$25 fee that the condominium owner must pay to the association for each new tenant unfairly singles out condominium owners.

homeowners' associations; registry; nonprofit corporation (H.B. 2764) – Vetoed

Requires, beginning January 1, 2014, condominium and homeowners' associations (HOA) to register with the Secretary of State (SOS) and provide the name, the address and the telephone number of the association or its designated agent or management company.

H.B. 2764 requires the SOS to provide for the establishment of an HOA registry and solicit proposals from nonprofit corporations in this state to provide registry service.

The Governor states in her veto message that HOAs are already required to disclose information to the county recorder and that the bill is unnecessary and would place an undue burden on the SOS's resources.