PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1241

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

   "Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes, is amended by adding section 9-500.34, to read:

   9-500.34. Prohibition on requirement of energy measuring and reporting; prohibition on regulation of auxiliary containers; state preemption; legislative findings; definition

   A. A CITY OR TOWN MAY NOT:

   1. REQUIRE AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY TO MEASURE AND REPORT ENERGY USAGE AND CONSUMPTION, INCLUDING ENERGY CONSUMPTION BENCHMARKING AND BUILDING FACILITY ENERGY EFFICIENCY AUDITS.

   2. IMPOSE A TAX, FEE, ASSESSMENT, CHARGE OR RETURN DEPOSIT ON AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY FOR AUXILIARY CONTAINERS.

   3. REGULATE THE SALE, USE OR DISPOSITION OF AUXILIARY CONTAINERS BY AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY.

   B. THE REGULATION OF AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY RELATING TO MEASURING AND REPORTING ENERGY USE AND CONSUMPTION AND THE SALE, USE AND DISPOSITION OF AUXILIARY CONTAINERS IS A MATTER OF STATEWIDE CONCERN. THE REGULATION OF MEASURING AND REPORTING ENERGY USE AND CONSUMPTION BY AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY AND THE SALE, USE OR DISPOSITION OF AUXILIARY CONTAINERS BY AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY PURSUANT TO THIS SECTION ARE NOT SUBJECT TO FURTHER REGULATION BY A CITY OR TOWN."
C. THE LEGISLATURE FINDS THAT SMALL BUSINESSES ARE PARTICULARLY SENSITIVE TO COSTS AND EXPENSES INCURRED IN COMPLYING WITH REGULATORY ACTIONS OF A CITY OR TOWN. THE LEGISLATURE FURTHER FINDS THAT INCONSISTENT REGULATION BY CITIES AND TOWNS HINDERS A SMALL BUSINESS FROM BENEFITING FROM FREE AND OPEN COMPETITION.

D. THIS SECTION DOES NOT PREVENT A CITY OR TOWN FROM CONTINUING A RESIDENTIAL RECYCLING AND WASTE REDUCTION PROGRAM AS AUTHORIZED BY SECTION 9-500.07 OR ENSURING THAT DISCARDED AUXILIARY CONTAINERS DEFINED AS SOLID WASTE PURSUANT TO SECTION 49-701.01 ARE DISPOSED OF PROPERLY.

E. FOR THE PURPOSES OF THIS SECTION, "AUXILIARY CONTAINER" INCLUDES REUSABLE BAGS, DISPOSABLE BAGS, BOXES, BEVERAGE CANS, BOTTLES, CUPS AND CONTAINERS THAT ARE MADE OUT OF CLOTH, PLASTIC, EXTRUDED POLYSTYRENE, GLASS, ALUMINUM, CARDBOARD OR OTHER SIMILAR MATERIALS AND THAT ARE USED FOR TRANSPORTING MERCHANDISE OR FOOD TO OR FROM A BUSINESS OR MULTIFAMILY HOUSING PROPERTY.

Sec. 2. Title 11, chapter 2, article 4, Arizona Revised Statutes, is amended by adding section 11-269.13, to read:

11-269.13. Prohibition on requirement of energy measuring and reporting; prohibition on regulation of auxiliary containers; state preemption; legislative findings; definition

A. A COUNTY MAY NOT:

1. REQUIRE AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY TO MEASURE AND REPORT ENERGY USAGE AND CONSUMPTION, INCLUDING ENERGY CONSUMPTION BENCHMARKING AND BUILDING FACILITY ENERGY EFFICIENCY AUDITS.

2. IMPOSE A TAX, FEE, ASSESSMENT, CHARGE OR RETURN DEPOSIT ON AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY FOR AUXILIARY CONTAINERS.

3. REGULATE THE SALE, USE OR DISPOSITION OF AUXILIARY CONTAINERS BY AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY.

B. THE REGULATION OF AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY RELATING TO MEASURING AND REPORTING ENERGY USE AND CONSUMPTION AND THE SALE, USE AND DISPOSITION OF AUXILIARY CONTAINERS IS A MATTER OF STATEWIDE CONCERN. THE REGULATION OF MEASURING AND REPORTING ENERGY USE AND CONSUMPTION BY AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY AND
THE SALE, USE OR DISPOSITION OF AUXILIARY CONTAINERS BY AN OWNER, OPERATOR OR
TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY
PURSUANT TO THIS SECTION ARE NOT SUBJECT TO FURTHER REGULATION BY A COUNTY.

C. THE LEGISLATURE FINDS THAT SMALL BUSINESSES ARE PARTICULARLY
SENSITIVE TO COSTS AND EXPENSES INCURRED IN COMPLYING WITH REGULATORY ACTIONS
OF A COUNTY. THE LEGISLATURE FURTHER FINDS THAT INCONSISTENT REGULATION BY
COUNTIES HINDERS A SMALL BUSINESS FROM BENEFITING FROM FREE AND OPEN
COMPETITION.

D. THIS SECTION DOES NOT PREVENT A COUNTY FROM CONTINUING A
RESIDENTIAL RECYCLING AND WASTE REDUCTION PROGRAM AS AUTHORIZED BY SECTION
11-269 OR ENSURING THAT DISCARDED AUXILIARY CONTAINERS DEFINED AS SOLID WASTE
PURSUANT TO SECTION 49-701.01 ARE DISPOSED OF PROPERLY.

E. FOR THE PURPOSES OF THIS SECTION, "AUXILIARY CONTAINER" INCLUDES
REUSABLE BAGS, DISPOSABLE BAGS, BOXES, BEVERAGE CANS, BOTTLES, CUPS AND
CONTAINERS THAT ARE MADE OUT OF CLOTH, PLASTIC, EXTRUDED POLYSTYRENE, GLASS,
ALUMINUM, CARDBOARD OR OTHER SIMILAR MATERIALS AND THAT ARE USED FOR
TRANSPORTING MERCHANDISE OR FOOD TO OR FROM A BUSINESS OR MULTIFAMILY HOUSING
PROPERTY."

Amend title to conform

WARREN H. PETERSEN