



Legislative Summary 2011



Established in 1969, the Arizona Municipal Water Users Association is a non-partisan, not-for-profit association of public water and wastewater utilities in Maricopa County. AMWUA's ten members serve more than 50% of the state's population and provide affordable water for industry and power generation.

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Introduction

The first regular session of the 50th Arizona State Legislature moved briskly and adjourned *sine die* on the 100th day of session. This pace did not preclude tough issues from being brought forward. The session featured another round of immigration-related measures, a number of gun bills, and more than twenty measures that attempted to challenge or preempt federal laws.

This spring also saw two special sessions. The first was related to the Governor's authority to make changes to AHCCCS eligibility and the second was called to enact an economic development package. The economic development package formally established the Arizona Commerce Authority (replacing the Department of Commerce) and featured a number of tax cuts for businesses, including phased reductions in property taxes and reductions in corporate income taxes.

Impact fees were, again, the subject of an intense lobbying effort by the Homebuilders Association. After months of negotiations, an agreement was reached among all the parties that made significant changes to cities' impact fee programs and should result in a cease-fire on impact fee legislation for the next few legislative sessions.

This legislative session saw a number of water bills that would have had significant negative impacts on AMWUA members' water supplies and water operations. There were also many bills that, because of their scope, would have had serious negative consequences for AMWUA members, though they were not necessarily targeted at water issues or AMWUA members.

The Legislature passed, and the Governor vetoed, SB1322 Cities; Managed Competition. This bill would have forced Phoenix and Tucson to put all of their services, direct and indirect, out to bid. The bill posed problems for managing conflicts of interests, subjected ratepayers to unnecessary costs, and jeopardized the tax-exempt status of bonds used to finance critical infrastructure, and at a low cost for ratepayers.

SB1522: Harvested Rainwater; Recharge would have permitted entities to capture storm water runoff and obtain a pumping credit for a portion of the captured storm water. The bill threatened AMWUA members' surface water supplies and raised significant issues regarding groundwater management and the taking of property rights. After being converted to a study committee, the bill did not move out of House Rules.

Three bills – SB1546, HB2313 and HB2472 -- were introduced that would have directed the Attorney General to condemn all of the federally held property in Arizona. This was problematic because much of the infrastructure that Arizonans rely on to get their water is

actually owned by the federal government and managed by Arizona entities – including municipal and agricultural users. AMWUA worked with the bills’ sponsors and our allies in the water community to neutralize those concerns. SB1546 passed the Legislature and was signed by the Governor.

No session would be complete without a bill about the eradication of fish as part of species management programs. HB2114: Fish Eradication Study Committee would have created a study committee to review human health risks posed by the Game & Fish Department’s invasive species management practices and would have halted the Department’s activities for a year. The bill failed to pass on House Final Read by a vote of 10-50.

The Governor and the Legislature came to an agreement on the State’s fiscal year 2012 budget during the first week of April. The Governor proposed shifting nearly half of the cost of ADWR onto municipalities. While this was thought to be a temporary proposal, the final budget enacted this shift to cities as a permanent tax that would be levied on cities as a lump sum based on population. The permanent nature of this arrangement presents a number of challenges and equity concerns that AMWUA hopes can be addressed in the near future.

During this session, ADWR’s longtime Director, Herb Guenther, retired. Assistant Director Sandy Fabritz-Whitney was named Acting Director, and subsequently nominated to be the Director. The Senate confirmed Director Fabritz-Whitney’s nomination on April 18, 2011.

The Arizona Municipal Water Users Association worked closely with its colleagues in the water community to defeat and neutralize many of the harmful bills that were introduced this session. AMWUA sincerely thanks the water interests with whom we worked so closely this year. AMWUA also would like to thank the many legislators who were so responsive to our collective concerns.

AMWUA’s 2011 Legislative Summary provides a comprehensive accounting of this session’s legislative activity and the potential impacts on Arizona’s water interests. This includes not only the direct water policies and agency budgets, but also those measures that affect water by way of broader or more generic regulatory application. To that end, the Summary includes:

1) AMWUA 2011 Tracking Sheet:

AMWUA’s quick reference guide to bills moving through the Legislature. It contains AMWUA’s position, a brief bill summary, and each bill’s status. The web-based version contains links to detailed information about the bills and AMWUA’s position papers.

2) Water Bills Enacted:

This section includes bills that passed the Legislature and were signed by the Governor. In addition to the AMWUA summary, this section includes, for reference purposes, the final text of the bills.

3) Water Bills Not Enacted:

This section includes bills that either failed to pass the Legislature or were vetoed by the Governor. These bills feature a summary. This section includes a list of water-related technical correction/striker vehicles that either did not pass or were stricken with non-water legislation.

4) Regulatory Bills Enacted:

This section includes bills that indirectly affect water interests and were enacted. These bills are summarized.

5) Regulatory Bills Not Enacted:

This sections includes bills that indirectly affect water interests and that failed to pass or were vetoed by the Governor.

6) Fiscal year 2012 Arizona Department of Water Resources Budget Summary

7) AMWUA Policy Statements:

This section includes AMWUA's guiding principles, as adopted by the AMWUA Board of Directors prior to each Legislative Session. AMWUA staff, the Water Resources Advisory Group, and the AMWUA Management Board use these policy statements to inform others of AMWUA's positions on specific legislative proposals throughout the session.

8) Index:

A reference section to the location of important concepts that provide the context for legislative proposals.

For more information about AMWUA members, the AMWUA legislative program, water resources in Arizona or water conservation tips, please visit www.amwua.org.



Legislative Session Tracking Sheet 2011

Bill	Sponsor	Description	AMWUA Position	Last Action
HB2005: Subdivisions; Acting in Concert	Burges	<p>Requires the governing body of an incorporated city or town to expedite or waive the requirement for a preliminary plat for any subdivision of ten (10) or fewer lots. Requires the city or town to waive or reduce infrastructure standards or requirements “proportional to the impact of the subdivision.” Exempts dust controlled access and drainage from this waiver. Places similar preemption on counties. Makes numerous changes to definitions of subdivisions and what parcels may be regulated as a subdivision. Also corrects statutory language in 9-463.01(N) relating to the ADWR Director’s notice to a governing</p>	Monitor	4/29 Signed by the Governor (Chapter 328, Laws 2011)

		body that a subdivision is served by a provider with a designation of an adequate water supply (Leg Council statutory deficiencies list). Burges Substitute floor amendment. Changes the trigger date for sales that are exempt from 5 to 10 years. Makes the infrastructure waivers permissive. Conference Committee removes language related to military facilities.		
HB2009: Disclaimer of Federal Patent Easement	Harper	Prohibits a city or town from allowing or approving a permanent structure on a federal general land office patent easement. This bill raises concerns about whether utility facilities, such as water lines, would be considered prohibited permanent structures. Makes changes to the process by which a city or town may abandon a federal patent easement. Specifies that the repeal of the 1938 Small Tract Act does not affect terms of patents or deeds issued prior to the repeal.	Monitor	1/25 HGov Held
HB2077: Federal Agencies; Registration with Sheriff	Crandell	Requires any federal agency conducting business in a county to register with the county sheriff. Permits the sheriff to impose a fee for registration. Requires any registered federal agency to forward to the sheriff all monies collected as a result of fees, fines or penalties. The sheriff shall	Monitor	2/21 HRules Held

		forward those monies to the State General Fund. This bill may impact the U.S. Bureau of Reclamation operations in Arizona. Prop 108 possible. HGOV AMENDED: Limits to “Federal Regulatory” agencies.		
HB2108: Development Fees; Codes; Moratorium; Repeal	Campbell	Repeals the moratorium on increased impact fees that are currently in place through 2012. Repeals 24-month fee effective date delay.	Monitor	1/18 Ref HGov, HCom
HB2114: S/E Aquatic Poisons	Stevens	SCOW Amendment: establishes a study committee to review fish eradication programs and the human health effects on them. The COW amendment also limits the temporary moratorium on nonmechanical fish eradication to Sonoita Creek and removes the requirements for ADEQ impact analyses. S/E SWRLD Prohibits the use of certain aquatic chemicals without a full impact analysis by DEQ and Places an indefinite moratorium on the chemicals until DEQ is adequately funded to conduct the review of the analysis.	OPPOSE (NEUTRAL AS AMENDED 4/7)	4/19 FAIL House Final 10-50
HB2119: Technical Correction; Groundwater Permits	Stevens	Striker vehicle.	Monitor	Introduced
HB2120: Technical Correction; APA; Water	Stevens	Striker vehicle.	Monitor	Introduced
HB2122: Energy Policy Study Committee	Patterson	Creates a commission to review and propose	Monitor	1/18 Ref HEnr, HEnv

		state energy policies. Report by 9/2013.		
HB2136: Technical Correction; Water Quality Fund S/E Fee Commission	Reeve	S/E Proposed to extend 2010 Fee Commission	Monitor	4/12 FAILED Senate 10-19; motion to reconsider FAILED
HB2193: Water Charges; Responsibility	Jim Weiers	Further defines the person with whom a city may contract to provide residential water and wastewater services to specify that it is the person who actually resides at the location and receives the service. Enables an immediate family member who does not reside at the location to contract and pay for the service. (see also SB1344) (HEngrossed)	Monitor	4/27 Signed by the Governor (Chapter 279, Laws 2011)
HB2216: State Agency Standards; Fed Req	Fillmore	A state agency is prohibited from enacting a rule or standard that is more stringent than the corresponding federal law. Requires the Governor's office to enforce directly or through GRRC.	Monitor	1/24 Ref HGov
HB2264: Home Sales; Water Supply Disclosure	Ableser	Beginning Jan 1, 2012, a subdivider outside an AMA who sells more than one (1) lot is required to record a document with a notice of water adequacy or inadequacy. A property owner may subsequently get a notice from ADWR and record it. HAW AMENDMENT: removes the recording of the document and replaces with a requirement for the water provider to give notice of change of determination to the property	Monitor	3/17 PASS House 41-18

		owner.		
HB2274: IGAs; Separate Legal Activity	Pratt	Adds Indian Tribes to the list of entities that may enter into an IGA for the formation of an entity to exercise joint powers. Changes the term “political subdivision” to “public agency” throughout.	Monitor	4/29 Signed by the Governor (Chapter 330, Laws 2011)
HB2279: Tech Correction; Water Protection S/E Renewable Energy Credits	Pratt	Proposed HWM S/E RE: Renewable Energy Credits.	Monitor	2/14 HWM HELD
HB2313: Eminent Domain on Federal Property	Jones	Adds federal property, not acquired pursuant to A1, S8, C17 U.S. Constitution (State Legislature’s consent to purchase) to the types of properties that may be condemned by the state. Directs the Attorney General to open condemnation proceedings against those federal properties, if they could benefit the State Land Trust or improve the ability of the state to generate revenue. HJud: amended the bill to exclude improved property and property held for the benefit (including water rights) of a reclamation program or is managed by a political subdivision or special district of the state. Rules amendment: requires actions to have the consent of the US. (SEE ALSO 1546)	AMEND	3/16 Ref SJud

HB2314: Fee Commission	Jones	State Agency Fee Commission and other things. (see also 2136)	Monitor	4/29 Signed by the Governor (Chapter 333, Laws 2011)
HB2325: Tech Correction; Water Exchanges	Jones	Striker vehicle.	Monitor	Introduced
HB2326: Tech Correction; AMAs	Jones	Striker vehicle.	Monitor	Introduced
HB2327: Tech Correction; Water Resources	Jones	Striker vehicle.	Monitor	Introduced
HB2393: Drought Emergency Groundwater Transfers	Jones	Permits the temporary transportation of groundwater from a groundwater basin, or San Pedro District, if the ADWR Director finds that all ten (10) conditions are met. The conditions include declaration of emergency by the Governor, withdrawal must be from a well in existence on the day of the emergency declaration, consent of the city or county in whose jurisdiction the well is located, transportation may only occur by train or truck, the water will be used for domestic purposes or stock watering, the area needing the water has implemented an emergency conservation plan. The water may not be used in an AMA. Limited to the lesser of 6 months or the length of time determined by the Director. May have one 6-month extension. Prohibits the use of the transferred water to supply new growth or deficient base water supplies. Effective April 30, 2011. This language is the same as previously adopted	Monitor	3/7 Ref SWLRD

		annually as session law, except for the reference to the San Pedro District. (amendment removes reference to San Pedro) (SEE ALSO S/E 1566)		
HB2397: State Lands; Taxes	Jones	Tax payment changes for purchased state lands. Amended with language similar to 1089 relating to mining exploration leases on state lands	Monitor	4/27 Signed by the Governor (Chapter 284, Laws 2011)
HB2457: Groundwater Savings Facilities; Landscape Use	Williams	Changes the definition of a GSF to include facilities that use effluent for landscape or turf. Changes the definition of water that cannot be reasonably used by specifying subparagraphs (may be a technical correction). Enables ADWR Director to issue a GSF permit to a person who, in addition to the current conditions for a GSF, uses “in-lieu water” for landscape or turf.	OPPOSE	2/17 HAW Not Heard
HB2471: Federal Mandates; Proof of Constitutionality	Gowan	The legislature is prohibited from appropriating State monies to comply with a federal mandate unless the federal mandate includes a report that specifies a “reasonable and logical” argument for why the mandate would pass a constitutional challenge in the courts. The report required in the federal mandate must include a statement of whether the mandate violates the “sovereign rights” of the state as guaranteed by the 10th Amendment.	Monitor	3/14 HCOW OK

<p>HB2472: Eminent Domain on Federal Property</p>	<p>Gowan</p>	<p>Adds federal property, not acquired pursuant to A1, S8, C17 U.S. Constitution (State Legislature’s consent to purchase) to the type of properties that may be condemned by the State. Directs the Attorney General to open condemnation proceedings against those federal properties, if they could benefit the State Land Trust or improve the ability of the state to generate revenue.</p>	<p>AMEND</p>	<p>1/24 Ref HJud; HGov</p>
<p>HB2485: Government Land; Replacing Private Land S/E Government Land Study Committee S/E Liquid Petroleum Gas</p>	<p>Gowan</p>	<p>Senate S/E Proposed: relating to Liability in Liquid Petroleum gas emergency events. Requires any government agency that purchases or condemns private property to pay in-lieu tax to the jurisdictions impacted by that purchase. Requires the government agency to report the terms of the acquisition to the State Land Department. If the purchase of private property reduces the appraised value of private property in the county, the purchaser is required to transfer property of an equivalent value back to the private sector. Prohibits a person from voluntarily conveying property to a government agency unless the conveyance is conditioned on the government paying the in-lieu tax. Makes the state and the county in which the property is located become “parties in interest” to the conveyance and are authorized to sue to</p>	<p>Monitor</p>	<p>4/19 Senate adopted Conference Report</p>

		enforce provisions of the conveyance. (See 1319) S/E HNR: Creates a study committee to review effects of government land acquisitions.		
HB2501: Rules; Laws; Ordinances; Interpretation	Vogt	Any rule, law or ordinance that is ambiguous must be construed in favor of the person who challenges it. Amendment narrows application to permits, licensing, and zoning. Rules amendment w/d. Substitute floor amendment exempts agencies that go through the state rules adoption process.	Monitor	4/7 SCOW Retained
HB2502: Public Programs; Advertisement; Funding Source	Seel	Requires that any public agency or any organization that gets more than 50% of its revenues from state, federal or local taxes must place a disclosure on media or communications that advertise a program. SGov amendment clarifies exemption for communications that solicit monies or that already have a disclosure.	Monitor	4/29 VETOED
HB2527: Well Ownership; Sale; Registration	Pancrazi	Requires the new owner, when well ownership is transferred, to record well information with the county recorder. HAW Amendment Limits to domestic use well.	Monitor	2/10 HAW Amended
HB2578: Development Agreements; Moratorium	Fillmore	Prohibits amendments to development agreements.	Monitor	2/3 Ref HGov

HB2593: Salinity Study Committee	Fann	Creates an 18-member committee comprising of legislative, state agency, and public members. The committee is tasked with studying water salinity problems in the United States and other countries; water salinity effects on groundwater conservation; reclaimed water and its use on golf courses; effects on tourism; financial impacts of water treatment for salinity; sources of excess salinity; and possible responses. The Committee shall report by December 31, 2011. Committee repeals on Sept 30, 2012. HENV amendment: limits study scope to water softener impacts; adds some members. House COW amendment: adds APS as commission member.	Monitor	4/19 Signed by the Governor (Chapter 201, Laws 2011)
HB2600: Water Conservation; Cities	C Miranda	Requires cities to adopt water conservation ordinances that limit water use on landscaping. Landscaping could only be watered 3 times a week between April 15 and Oct 15. During the rest of the year, only twice per week. Applies to residential and commercial and levies civil penalties (\$50/\$100 respectively) on both. A violation of this type would be considered a secondary offense.	Monitor	2/7 Ref HAW, HGov
HB2665: Environment; Regulatory Changes	Reeve	Places numerous requirements on agencies that perform inspections as part of permit enforcement.	Monitor	4/27 Signed by the Governor (Chapter 291, Laws 2011)

HB2693: Unfunded Mandates	R Miranda	Would prohibit a law from taking effect that requires a city to provide a service or take an action where the legislature does not provide a funding source.	Monitor	2/9 Ref HGov
HCR2007: Development Fees; Authority	Campbell	Refers to voters a measure to establish development fees in the State Constitution as the exclusive domain of cities and counties.	Monitor	Introduced
HCR2012: Legislation; Statement of Constitutional Authority	Seel	Refers to ballot requirement that each piece of legislation cite the constitutional authority under which the legislation would be enacted and enforced.	Monitor	Introduced
SB1049: Technical Correction; APA Revenue Bond Authority	McComish	Striker vehicle.	Monitor	1/10 Ref SRules
SB1089: S/E Mining	Allen	Adds evaporative salts to a list of mining minerals. SCOW amendment related to State Lands Leases.(Watch for future amendments.) (SEE HB2397)	Monitor	3/21 PASS Senate 17-10
SB1090: Technical Correction; Water Quality	Allen	Striker vehicle. S/E Endangered Species	Monitor	2/17 SBSFSS Not Heard
	Allen	Striker Vehicle.	Monitor	1/10 Ref SRules

SB1091: Technical Correction; Dry Wells				
SB1110: Navigable Stream Adjudication Commission	Reagan	Extends the sunset of the NSAC from 2012 to 2016. Requires the ANSAC direction to provide notice to Legislative Council when the Commission's work is complete (as Amended SWRLD).	Monitor	4/7 Signed by the Governor (Chapter 39, Laws 2011)
SB1157: S/E Water Charges S/E#2 Presidential Candidate's Eligibility	Griffin	HGov S/E Relating to Candidate Eligibility Specifies that the a property owner is not responsible for wastewater or garbage collection service charges, unless the property owner contracted for the service.	Monitor	4/7 HCOW Retained
SB1171: Cities; Acquisition of Wastewater Facilities	Antenori	Permits a city to acquire, with voter approval, a wastewater system operated by a county. (Marana v Pima County)	Monitor	4/18 Signed by the Governor (Chapter 146, Laws 2011)
SB1172: Energy and Water Savings Accounts S/E Same Subject	Nelson	Permits a city, county or school district to enter into an agreement with a service provider to establish an energy and water savings account via a method similar to a performance contract.	Monitor	2/16 SGOV PASS
SB1193: Reportable Hazardous Release; Exemption	Nelson	Conforming change to correct federal code references relating to hazardous releases that must be reported. [Note—Identical language included in SB1624 Environment BRB]	Monitor	3/9 HMAPS Held

SB1219: Drought Emergency Groundwater Transfer	Allen	Permits the temporary transportation of groundwater from a groundwater basin, or San Pedro District, if the ADWR Director finds that all ten (10) conditions are met. The conditions include declaration of emergency by the Governor, withdrawal must be from a well in existence on the day of the emergency declaration, consent of the city or county in whose jurisdiction the well is located, transportation may only occur by train or truck, the water will be used for domestic purposes or stock watering, the area needing the water has implemented an emergency conservation plan. The water may not be used in an AMA. Limited to the lesser of 6 months or the length of time determined by the Director. May have one 6-month extension. Prohibits the use of the transferred water to supply new growth or deficient base water supplies. Effective April 30, 2011. This language is the same as previously adopted annually as session law, except for the reference to the San Pedro District.	Monitor	1/24 Ref SWLRD
SB1286: Counties; Cities Permits; Time Limits	Klein	Requires a county or city to approve or disapprove a permit or license application within 60 days of the completed application being submitted. HGOV amendment: allows 60 day extension and requires the city to provide notice of incomplete application	Monitor	4/12 House Rules OK

		within 30 days.		
SB1293: Dams; Affidavit; Recording S/E Property tax lodging	Griffin	HAW S/E related to Property Tax for lodging facilities. Requires the owner of a completed dam to record the affidavit to the Director of ADWR with the county recorder.	Monitor	4/25 Signed by the Governor (Chapter 232, Laws 2011)
SB1294:Water Banking Authority; Report S/E Aquatic Poison	Griffin	Changes the AWBA annual report due date from July 1 to March 1. Strike Everything : Related to ADEQ impact statements for use of aquatic poisons. S FLOOR Amendment removes reference to "similar" aquatic poison. SEE 2114	OPPOSE	3/8 Ref HENR
SB1319: Government Land; Restoring Private Land	Griffin	Requires any government agency that purchases or condemns private property to pay in-lieu tax to the jurisdictions impacted by that purchase. Requires the government agency to report the terms of the acquisition to the State Land Department. If the purchase of private property reduces the appraised value of private property in the county, the purchaser is required to transfer property of an equivalent value back to the private sector. Prohibits a person from voluntarily conveying property to a government agency unless the conveyance is conditioned upon the government paying the in-lieu tax. Makes the state and the county in which the property is located become "parties in interest" to the	Monitor	2/16 SWRLD HELD

		conveyance and are authorized to sue to enforce provisions of the conveyance.		
SB1322: Cities; Services; Managed Competition S/E Same Subject	Antenori	Requires cities with a population greater than 500,000 to put any (excluding public safety and judicial) services, direct or indirect, with a value of greater than \$50,000 out to bid. SGov S/E Lowers population threshold to 200,000. SFloor Returned the threshold to 500k population and \$75,000 value House COW amendment raises the contracting value threshold to \$500,000; inserts legislative intent on statewide concern; authorize regional authorities to bid on services, permits a city to issue the award to best value but requires the city to list specify the material reasons why the award was not made to the low bidder; and prohibits the city from disaggregating elements of service to avoid the contracting requirements.	OPPOSE	4/28 VETOED
SB1328: Federal Requirements; Compliance	Antenori	Permits any resident of Arizona to choose not to comply with a federal law or rule if any federal employee or official is permitted not to comply with that law or rule.	Monitor	1/31 Ref SGov
SB1339: Administrative Rules; Repeal	Antenori	Repeals all agency rules that may have an impact on the private sector. Effective Jan 1, 2013. Prohibits agencies from adopting rules with an impact on the private sector.	Monitor	3/14 FAIL Senate 11-17

		Would require that any rule that is needed that would have an impact on the private sector, must be adopted as statute.		
SB1344: Municipal Water Charges; Responsibility	Antenori	Further defines the person with whom a city may contract to provide residential water and wastewater services to specify that it is the person who actually resides at the location and receives the service. Enables an immediate family member who does not reside at the location to contract and pay for the service. (see also HB2193)	Monitor	2/9 SGov Not Heard
SB1393: Greenhouse Gas Regulation	Allen	Not withstands federal law and regulations and declares that the state has the authority to regulate greenhouse gas emissions. Contains legislative intent language related to "Freedom to Breathe Act."(watch for NGS impacts) Senate Floor amendment adds specific reference to PM2.5 and PM10.	Monitor	3/1 PASS Senate 21-8
SB1394: Greenhouse Gas Emissions; Freedom To Breathe	Allen	Not withstands state and federal law. Establishes terms of a multistate compact. Requires reciprocity to other state's "freedom to breathe" laws. Requires the governor to maintain a list of signatory states and requires the governor to provide citations of any freedom to breathe laws to signatory states. Contains various severability provisions. (watch for NGS impacts)	Monitor	3/8 Ref HEnv

SB1395: Endangered Species; Compact	Allen	Provides for state participation in an interstate endangered species compact. Outlines general provisions that must be addressed in such a compact. (Watch for MSCP impacts as well as other species conservation agreements) Senate Floor Amendments and SBFS amendment relate to implementation of the pact, including criminal charges for enforcement of the endangered species act. One of the Floor amendments excludes Habitat Conservation plans and related agreements.	Monitor	3/1 COW with Amendments
SB1433: Federal Legislation; Nullification	Klein	Establishes a Joint Legislative Commission on the nullification of federal laws. Establishes a bipartisan, 14-member committee. Senate floor amendment: adds laws, mandates and executive orders to those items that are subject to review and expands the 8th paragraph of the legislative intent section.	Monitor	3/8 Senate FAILED on Recon 12-18
SB1463: Political Subdivisions; Economic Estimates	Cajero Bedford	Changes city expenditure limits to account for cost shifts from the state.	Monitor	2/1 Ref SFin
SB1470: County Water Authority; Repeal	Gould	Repeals statutes authorizing county water authorities.	Monitor	2/28 Ref HAW, HEnv

SB1496: City Planning; Aggregates	Allen	Requires cities to include aggregate resources in general plan land-use components and identify policies to protect those resources from incompatible land-uses.	Monitor	2/1 Ref SNRT
SB1522: Harvested Water; Recharge S/E Macro Water harvesting; Study Committee	Pierce	HAW S/E : Establishes a study committee to review water harvesting issues. Allows recovery of groundwater equivalent to 50% of harvested rainwater. Directs ADWR to adopt a rule for the calculation of the harvested water base amount.	OPPOSE/Support S/E	3/24 HAW PASS S/E
SB1525: Development Fees	Pearce	Numerous changes to impact fee statutes.	Monitor	4/26 Signed by the Governor (Chapter 243, Laws 2011)
SB1533: Renewable Energy Districts	Melvin	Permits creation of renewable energy districts to finance renewable energy and rainwater harvesting infrastructure.	Monitor	2/16 SCom
SB1546: Eminent Domain on Federal Property	Melvin	Adds federal property, not acquired pursuant to A1, S8, C17 U.S. Constitution (State Legislature's consent to purchase) to the type of properties that may be condemned by the State. Directs the Attorney General to open condemnation proceedings against those federal properties, if they could benefit the State Land Trust or improve the ability of the state to generate revenue. (see also HB2472 and	AMEND	4/29 Signed by the Governor. (Chapter 356, Laws 2011)

		HB2313) SENATE FLOOR AMENDMENTS exempt bureau of reclamation projects; properties managed by political subdivisions or special districts; improved or encumbered properties; and reservation lands. HRULES Amendment requires Consent of the Federal Government		
SB1566: Exempt Wells; Emergency Use S/E Emergency Groundwater Transfers	McComish	House HAW S/E adds the permanent emergency groundwater transfer language from HB2393 in addition to the amended version of the emergency exempt wells for livestock. House Floor amendment changes the Groundwater transfer to session law. Provides an exemption to the prohibition on exempt wells within the service area of an AWS designated municipal water distribution system. Would allow, with written consent of the distribution system, the use of a solar powered exempt well on agricultural land during an emergency temporary system outage (as determined by the system) for the sole purpose of livestock watering. The well would not exceed 10gpm pumping rate. Well usage would be required to be measured by an ADWR approved device. The well would be subject to inspection and record keeping requirements by the municipal provider. Adds recovery wells to the types of wells that ADWR does not need to consider the impact on exempt wells when approving or disapproving an action. Floor amendment	Monitor	4/20 Senate Concur recommended

		removes the 10gpm limit and adds ability of municipal provider to revoke consent to operate the well.		
SB1598: Cities; Counties; Regulatory Review	Klein	Adds a general plan item for aggregates. Creates a private right of action for any person aggrieved by an element in the general plan. Establishes a “regulatory bill of rights” for municipal customers. Establishes numerous conditions for inspections by municipal inspectors. Requires a city to adopt licensing timeframes for each type of license or permit it issues. Requires establishment of a directory of documents. Similar requirements for counties. Delayed effective dates, Sept 30, 2011 and Dec 31, 2011. SGOV amendment clarifies that general planning for aggregates shall not affect permitting of underground water storage facilities. Floor amendment requires cities and counties to consider utility locations in design phase for construction projects. HGov Amendment makes numerous changes.	Monitor	4/28 Signed by the Governor (Chapter 312, Laws 2011)
SB1612: Budget; General Appropriations; 2012	Biggs	Provides appropriations for FY2012 for the various state agencies. Includes \$12.94M for ADWR, which includes \$6.257M from GF and \$6.458M in revenues from fee based programs.	Monitor	4/7 Signed by the Governor (Chapter 24, Laws 2011)

SB1624: Environment BRB	Biggs	Budget reconciliation bill providing policy adjustments to implement the general appropriations bill. Allows the Director of Water Resources to collect a fee from all Arizona cities. This fee is population based. This fee and any increases may not exceed \$7M. The fee is established as permanent statute.	Monitor	4/7 Signed by the Governor (Chapter 36, Laws 2011)
SCR1015: Jurisdiction over Intrastate Waters	Allen	Proposes an amendment to the State Constitution that declares all non-navigable, in-state waters, including ephemeral and intermittent, to be under the sole jurisdiction of the State of Arizona. SWRLD amendment exempts Indian tribes with treaty with the United States and changes the claim of jurisdiction from "sole" to "primary."	Monitor	3/1 PASS Senate 21-8
SCR1024: Intrastate Water Resources; Sovereignty	Griffin	Postcard to Congress expressing concerns about the Clean Water Act.	Monitor	4/13 PASS House 40-18; Filed SOS
SCR1032:Tax; Supermajority	Griffin	Proposes a constitutional amendment that would require 60% supermajority for passage of any tax or rate increase referred to the ballot at the state or local levels.	Monitor	3/10 PASS Senate 16-14
SCR1033: Best Available Control Technology	Shooter	Postcard to congress relating to control technologies for greenhouse gas emissions.	Monitor	4/19 PASS Senate Final; Transmitted to SOS

		(watch for NGS)		
SCR1039: Property Tax Levy Increase; Limit	Gould	Constitutional cap on levy growth at 2% annual. Effective tax year 2013. Excludes property taxes pledged to bonded indebtedness issued or a long-term obligation established prior to January 2014. Allows single year exemptions on 66% supermajority vote of electors. Limitation increases each year regardless of actual levy. Applies to all political subdivisions.	Monitor	2/2 Ref SFin

Water Bills Enacted

HB2593: Water Salinity Study Committee	27
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HB2593: Water Salinity Study Committee

HB2593 would establish a 24-member, bipartisan, joint legislative study committee. The committee would be comprised of:

- a) One House Republican (Speaker Appointee)
- b) One House Democrat (Speaker)
- c) One Senate Republican (President)
- d) One Senate Democrat (President)
- e) One elected municipal official (Speaker)
- f) One representative of agriculture (President)
- g) One representative of the golf industry (Speaker)
- h) One representative of the hotel industry (President)
- i) One representative of the homebuilding industry (Speaker)
- j) One representative of office properties (President)
- k) One representative of a municipal wastewater department (President)
- l) One representative of a municipal water provider (Speaker)
- m) One attorney with experience in water law (President)
- n) One representative of a public service corporation that generates electricity (Speaker)
- o) One representative of a public service corporation that provides water (Speaker)
- p) One representative of a public service corporation that provides water (President)
- q) One representative of an ion exchange water softener company (President)
- r) One representative of an ion exchange water softener company (Speaker)
- s) One representative of a non-profit association that focuses on water quality issues (President)
- t) One representative of the salt industry (President)
- u) ADEQ Director
- v) ADWR Director

w) Chairman of the Arizona Corporation Commission

x) WIFA Director

The committee would also feature non-voting representatives from the U.S. Bureau of Reclamation and the US EPA.

The committee is tasked with studying water salinity issues in the U.S., and other countries, as they relate to the use of water softeners, including: effects of salinity on groundwater, water conservation, golf courses, effects on tourism, financial impact and necessity of water treatment for salinity, sources of excess salinity, and potential responses. The Committee is required to report to the Legislature by December 31, 2011. The Committee repeals on September 30, 2012.

Sponsor: Representative Fann

Last Action: Signed by the Governor (Chapter 201, Laws 2011)

House of Representatives

Fiftieth Legislature
First Regular Session
2011
House Engrossed
CHAPTER 201

HOUSE BILL 2593

AN ACT

ESTABLISHING the joint legislative study committee on water salinity issues.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Joint legislative study committee on water salinity issues; membership; report; delayed repeal

A. The joint legislative study committee on water salinity issues is established consisting of the following members:

1. Two members of the house of representatives who are appointed by the speaker of the house of representatives, one of whom is a member of the majority party and the other of whom is a member of the minority party.
2. Two members of the senate who are appointed by the president of the senate, one of whom is a member of the majority party and the other of whom is a member of the minority party.
3. One person who is an elected municipal official and who is appointed by the speaker of the house of representatives.
4. One person who represents the agricultural industry and who is appointed by the president of the senate.
5. One person who represents the golf industry and who is appointed by the speaker of the house of representatives.
6. One person who represents the hotel, motel and resort industry and who is appointed by the president of the senate.
7. One person who represents the homebuilding industry and who is appointed by the speaker of the house of representatives.
8. One person who represents an association of office and industrial properties and who is appointed by the president of the senate.

9. One person who represents a city owned wastewater department and who is appointed by the president of the senate.
 10. One person who represents a city owned water provider and who is appointed by the speaker of the house of representatives.
 11. One person who is an attorney with experience in water law and who is appointed by the president of the senate.
 12. One person who represents a public service corporation in the business of electric generation and who is appointed by the speaker of the house of representatives.
 13. Two persons who represent a regulated public service corporation that provides water, one of whom is appointed by the speaker of the house of representatives and one of whom is appointed by the president of the senate.
 14. Two persons who represent manufacturers and retail dealers of ion exchange water softeners, one of whom is appointed by the president of the senate and one of whom is appointed by the speaker of the house of representatives.
 15. One person who represents a nonprofit association that focuses on water and wastewater and who is appointed by the president of the senate.
 16. One person who represents a nonprofit association that focuses on the salt industry and who is appointed by the president of the senate.
 17. The director of the department of environmental quality or the director's designee.
 18. The director of the department of water resources or the director's designee.
 19. The chairman of the Arizona corporation commission or the chairman's designee.
 20. The director of the water infrastructure finance authority of Arizona or the director's designee.
 21. As nonvoting members:
 - (a) One person who represents the United States environmental protection agency.
 - (b) One person who represents the United States bureau of reclamation.
- B. The committee shall meet and consider the following issues:
1. Water salinity issues related to water softener usage in the United States, other countries and this state.
 2. The relationship between water salinity issues and possible effects on water conservation, groundwater quality, and the quality impacts on water reclamation facilities and operations, and nature

of water and reclaimed water and its use on golf courses and other uses, and the potential effects on tourism as they relate to high usage of water softeners in Arizona.

3. The financial impact and necessity of water and wastewater treatment to address salinity levels and the potential costs for treatment methods and facilities.

4. An examination of sources of excess salinity caused by high water softener usage and possible responses.

C. The committee shall elect from among its members a chairperson and vice-chairperson and shall meet as designated by the chairperson. The committee may divide itself into subcommittees to consider issues as determined by the chairperson. Members of the committee are not eligible for compensation or reimbursement of expenses except as otherwise provided by law. The committee shall make a report on its findings, including recommendations on any further action if appropriate and shall submit that report to the governor, the president of the senate and the speaker of the house of representatives no later than December 31, 2011 and shall provide a copy of its report to the secretary of state.

D. This section is repealed from and after September 30, 2012.

APPROVED BY THE GOVERNOR APRIL 19, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 19, 2011.

SB1546: Eminent Domain on Federal Property

SB1546 directs the Attorney General, with consent of the United States, to file condemnation actions on property possessed by the United States if that property was not acquired by the United States with the consent of the Arizona Legislature (pursuant to article 1, §8, clause 17 US Constitution) and either:

- facilitates the state’s ability to manage, provide access to, or increase the profitability of the State Trust Lands, or
- that would provide a public use that increases the ability of the state to generate revenue.

Indian lands are not subject to these condemnation actions.

The bill also excludes federal property that is improved or legally encumbered. It also excludes any federal properties that are held for the benefit, including water rights, of a federal reclamation project or that is managed by a political subdivision or special taxing district of the state.

AMWUA and others raised concerns about the introduced version of this bill because much of the water-related infrastructure and properties in Arizona are owned by the federal government. The bill was amended to remove those properties from an action by the state.

See also HB2313 and HB2472.

Sponsor: Senator Melvin

Last Action: Signed by the Governor (Chapter 356, Laws 2011)

Senate

Fiftieth Legislature
First Regular Session
2011
House Engrossed
CHAPTER 356

SENATE BILL 1546

AN ACT

Amending title 12, chapter 8, article 2, Arizona Revised Statutes, by adding section 12-1114.01; relating to eminent domain.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 12, chapter 8, article 2, Arizona Revised Statutes, is amended by adding section 12-1114.01, to read:

START_STATUTE12-1114.01. Property of the United States subject to condemnation; duty of attorney general to file action; exclusions

A. Property that may be taken under this article includes property possessed by the United States government unless:

1. The property was acquired by the federal government with the consent of the legislature pursuant to article I, section 8, clause 17, Constitution of the United States.
2. The property consists of Indian lands owned or held by a federally recognized Indian tribe, nation, band or community as reservation lands, allotment lands or sovereign or proprietary lands or in any other capacity.

B. This state shall be the plaintiff described in this article in an action to condemn property described in subsection A. This state is not responsible for legal actions filed by other persons or entities.

C. The attorney general shall file eminent domain actions with the consent of the United States government on property described in subsection A:

1. That facilitate this state's ability to manage, or provide access to, or increase the profitability of, the lands owned or held in trust by this state for the benefit of public schools and other institutions of this state consistent with this state's fiduciary responsibilities toward the beneficiaries of the trust lands.
2. For a public use that increases the ability of this state to generate revenue.

D. This section does not apply with respect to:

1. Property held by the United States for the benefit, including water rights, of a federal reclamation project or managed by a political subdivision of this state, or a special taxing district organized under title 48.

2. Property on which permanent improvements are constructed or that is legally encumbered.

END_STATUTE

APPROVED BY THE GOVERNOR APRIL 29, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 29, 2011.

SCR1024: Intrastate Waters; Sovereignty

A concurrent resolution supporting state sovereignty over intrastate water resources.

Whereas, the Tenth Amendment of the United States Constitution preserves powers not delegated to the federal government for the states, establishing federalism and state sovereignty as integral founding principles of American government; and

Whereas, the United States Supreme Court in *Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers*, (2001) and *Rapanos v. United States*, (2006) held that the Federal Water Pollution Control Act, known as the Clean Water Act, did not intend to grant federal authority over intrastate waters, and that these waters are not subject to regulation under the interstate commerce clause of the United States Constitution; and

Whereas, United States Senate Bill 787 and United States House of Representatives Bill 5088 (2009) would have expanded the Clean Water Act's jurisdiction from "navigable waters of the United States" to "waters of the United States" and defined "waters of the United States" to mean "all other waters, such as intrastate lakes, rivers, streams including intermittent streams, mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds"; and

Whereas, this definition grants the United States Environmental Protection Agency broad and vague flexibility to interpret federal jurisdiction expansively, which it attempted to do under the current law and with which the Supreme Court disagreed; and

Whereas, these bills represented a clear attempt by the federal government to deprive states of their jurisdiction over intrastate waters and place all water resources under the control of the federal government; and

Whereas, legislation such as this would severely diminish state sovereignty over natural resources and would detrimentally involve the federal government in an inefficient and cumbersome effort to regulate highly localized water resources such as abandoned pits and ponds; and

Whereas, legislation such as this would also impact a federally recognized tribe, nation, band or community of Indians in this state with regard to use of rivers and waters that are upstream of tribal land, that flow through tribal land or waters that are not on tribal lands but, by compact, may be used for sacred ceremonies; and

Whereas, jurisdiction over intrastate water resources is a role traditionally held by individual state governments in order to promote efficient and effective usage.

Therefore

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring: That the Members of the Legislature support the continued sovereignty and jurisdiction of the states to regulate intrastate water resources and oppose any attempt by the federal government to diminish this jurisdiction unnecessarily.

That the Secretary of State of the State of Arizona transmit copies of this Resolution to the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

Sponsor: Senator Griffin

Last Action: Transmitted to the Secretary of State

Water Bills Not Enacted

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HB2114 S/E Fish Eradication Study Committee

HB2114, as passed by the Senate, would create a legislative study committee to review the human health impacts of fish eradication practices that are a part of species management programs. The bill would have also prohibited fish eradication by non-mechanical means – meaning the application of Rotenone and Antimycin-A – in Sonoita Creek Arizona until 2012.

Earlier versions would have prohibited the use of Rotenone statewide, which drew the objection of AMWUA because it would have impaired the state’s ability to comply with the Habitat Conservation Programs and Multi-Species Conservation Programs that are integral to our ability to deliver water from the CAP and SRP systems. (see also SB1294)

Sponsor: Representative Stevens (S/E by Senator Griffin)

Last Action: Failed House Final Read 10-50.

HB2264: Home Sales; Water Supply Disclosure

HB2264 would require, beginning January 1, 2012, a subdivider who sells one or more lots outside an AMA to record a document that contains a statement of water adequacy or inadequacy for the subdivision. The document shall be recorded in the county in which the subdivision is located and is required to contain the legal description of the property and a statement as to whether the property is served by a water supply that has been determined to be adequate or inadequate.

If the property is later determined to be served by an adequate water supply, the Director of ADWR shall provide notice to the water provider that serves the subdivision and the water provider is required to provide written notice, in any form – not necessarily recordable – to the affected customers.

This bill would apply only to subdividers who are not required to provide a recoded disclosure of water adequacy pursuant to ARS 33-406.

Sponsor: Representative Ableser

Last Action: Assigned to Senate Water

HB2313: Eminent Domain on Federal Property

HB2313 directs the Attorney General, with consent of the United States, to file condemnation actions on property possessed by the United States, if that property was not acquired by the United States with the consent of the Arizona Legislature (pursuant to article 1, §8, clause 17 U.S. Constitution) and either:

1. facilitates the state's ability to manage, provide access to, or increase the profitability of the State Trust Lands or
2. that would provide a public use that increases the ability of the state to generate revenue.

Indian lands are not subject to these condemnation actions.

The bill also excludes federal property that is improved or legally encumbered. It also excludes any federal properties that are held for the benefit, including water rights, of a federal reclamation project or that is managed by a political subdivision or special taxing district of the state.

AMWUA and others raised concerns about the introduced version of this bill because much of the water-related infrastructure and properties in Arizona are owned by the federal government. The bill was amended to remove those properties from an action by the state.

See also SB1546 and HB2472.

Sponsor: Representative Jones

Last Action: Assigned to Senate Judiciary (see also SB1546)

HB2393: Drought Emergency Groundwater Transfers

HB2393 provides an exemption to the prohibition on the transportation of water away from a groundwater basin during declared drought emergencies. A similar provision has passed as session law frequently in the past decade. The exemption would apply only outside of an Active Management Area (AMA).

The bill includes ten conditions, all of which must be met, in order to trigger the transportation authority:

1. The Governor has declared an emergency due to lack of precipitation or a water shortage pursuant to ARS35-192.
2. The groundwater to be transferred is drawn from a well that is in existence on the date of the Governor's Declaration of Emergency.
3. The city or town, if the well is located in a city or town, has consented to the groundwater withdrawal.
4. If the well is located in a political subdivision established pursuant to title 48, chapter 17 or 19, that political subdivision has consented to the groundwater withdrawal.
5. If the water is to be transported from one county to another, the county of origin has consented to the groundwater withdrawal.
6. The groundwater is to be transported only by motor vehicle or train.
7. The groundwater transportation is necessary to provide water supplies for domestic, stock watering or potable municipal water service in a location included in the Emergency Declaration.
8. The groundwater transported will be used only for domestic, stock water or potable municipal water service purposes.
9. The county, city, town or other political subdivision within which the transported water is to be used has implemented an emergency conservation plan sufficient to prevent the nonessential use of groundwater.
10. The groundwater will not be used in an Active Management Area.

If all of the conditions are met, the Director is directed to approve the application and that approval is valid for six months, or until the Director determines that the transportation of groundwater is no longer necessary. The approval may be continued, upon request, for an additional six months if the Director determines that the conditions remain in effect. Groundwater transported pursuant to this act would be subject to the payment of damages and may not be transported to subsidize insufficient supplies due to continued growth or deficient base water supplies. (see also SB1566 and SB1219).

Sponsor: Representative Jones

Last Action: Assigned to Senate Water

HB2457: Groundwater Savings Facilities; Landscape Use

HB2457 changes the definition of a groundwater savings facility (GSF) to include a facility that uses “in-lieu water” for the purposes of landscape or turf irrigation. This amended definition provides that a facility’s distance from a reclaimed water treatment or distribution system is not material to the facility’s eligibility as a GSF. The bill also amends the definition of “in-lieu water” to include effluent delivered by a storer for the purpose of landscape or turf irrigation. The bill amends these definitions in both versions of section 45-802.01 (amended on through December 31, 2024 by Chapter 131, Laws 2010).

The bill allows the Director of ADWR to issue a permit to operate a GSF if the applicant uses “in-lieu water” for landscape or turf irrigation and meets the other requirements for a GSF permit.

Under current statute, the Director may only issue a GSF permit if all of the following conditions are met:

1. The GSF will cause the direct reduction or elimination of groundwater withdrawals in an AMA or INA.
2. The applicant will deliver water other than groundwater to an identified groundwater user who will use, and agrees in writing to use, the water delivered to it on a gallon-for-gallon substitute basis in lieu of groundwater that would have otherwise been pumped.
3. The in-lieu water is the only reasonably available source of water for the recipient other than groundwater.
4. The water delivered as in-lieu water would not have been a reasonable alternative source of water except through GSF.
5. The water delivered to the recipient as in-lieu water was not delivered before October 1990.
6. The applicant submits a plan that is satisfactory to the Director that describes how the applicant will prove the quantity saved at the GSF and what evidence will be submitted and may contain the following factors:
 - a. Cost of pumping groundwater relative to cost of in-lieu water and alternative sources
 - b. Historic quantity of groundwater pumped by the applicant at the location
 - c. Anticipated demand for groundwater and total anticipated demand for water
 - d. The recipient’s legal right to withdraw or use groundwater
 - e. The amount of CAP water the applicant anticipates accepting
 - f. Historic power usage to pump groundwater compared to the power used for in-lieu water usage
 - g. Factors that prevent the recipient from using in-lieu water without the GSF

Sponsor: Representative Williams

Last Action: Assigned to House Water

HB2472: Eminent Domain on Federal Property

HB2472 directs the Attorney General to file condemnation actions on property possessed by the United States if that property was not acquired by the United States with the consent of the Arizona Legislature (pursuant to article 1, §8, clause 17 US Constitution) and either:

1. facilitates the state's ability to manage, provide access to, or increase the profitability of the State Trust Lands or
2. that would provide a public use that increases the ability of the state to generate revenue.

Article 1 Section 8 of the United States Constitution enumerates the powers of Congress. Clause 17 provides Congress with the exclusive jurisdiction over lands for the Capital, and for military, ports, and other facilities that it acquires. The Congress shall have the power... "To exercise exclusive legislation in all cases whatsoever, over such District (not exceeding ten Miles square) as may, by cession of particular states, and the acceptance of Congress become the Seat of the Government of the United States, and to exercise like authority over all places purchased by consent of the Legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings."

It appears to be the intent of this legislation to require the State to attempt condemnation over any federal properties that were not acquired with the formal consent of the State Legislature. Notwithstanding numerous questions about the constitutionality of such an action, this bill presents a number of concerns with respect to its practical application. There are numerous facilities throughout the state on which AMWUA members rely that are operated by political subdivisions of the state, but the properties themselves are held by the United States. It is unclear whether these properties were acquired and constructed with a formal statement of consent by the Legislature. An action of condemnation by the state of these resources would be objectionable and harmful to the interests of AMWUA's members.

Sponsor: Representative Gowan

Last Action: Assigned to House Judiciary and House Government

HB2527: Well Ownership; Sale; Registration

HB2527 would require the new owner of a registered well to record with the county recorder's office a document that contains the well registration number and the legal description of the land on which the well is located. The bill also requires the document to contain the well owner's name and mailing address. This information is currently required to be provided to the Director of Water Resources upon initial registration of the well and upon any change in well ownership.

Sponsor: Representative Pancrazi

Last Action: Pass House Water amended.

HB2600: Cities; Conservation

HB2600 would require all cities and towns in Arizona to adopt ordinances that restrict watering of landscapes. During the period between April 15 and October 15, watering would be limited to three days per week. During the rest of the year, watering would be restricted to two days per week. A violation of the ordinance would be a civil violation punishable by a \$50 fine for residential properties and \$100 for commercial properties. The violation would be enforceable only as a secondary offense.

The city or town would be permitted to retain the fines collected for these violations and would be required to use those fines revenues to support enforcement of these watering restrictions.

Restricting landscape irrigation to certain days is done to address peak demand and shortage issues. If a utility doesn't have sufficient capacity to treat and deliver water during the height of the summer, for instance, restricting when customers irrigate spreads out the demand and flattens the peaking.

Limiting the number of irrigation days may not be an effective method to achieve conservation. It may actually be counterproductive. When restricted to watering only on certain days, people tend to react by watering more on the days when they are allowed to do so, and often water even when they don't need to, simply because it's their day to do so. Water use may actually increase. Plus, enforcement of the number of days may be difficult, unless the permitted days are prescribed.

Additionally, this approach doesn't consider varied plant materials. Vegetables and annuals may need more frequent watering; regionally appropriate plants, once established, may not need supplemental irrigation. AMWUA members promote the practice of grouping plants with similar watering needs on the same irrigation line (zone) and installing irrigation controllers that will irrigate different zones separately and according to their needs.

Utilities should be given the ability to manage their systems to ensure safe and reliable operations. Recent water line blowouts in LA illustrate this. Implementing twice-a-week irrigation on the same days throughout the city stressed the distribution pipes and caused blowouts to double.

AWMUA and our members encourage appropriate plant materials and efficient residential and commercial landscape watering practices through education, written and online resources, professional training, rebates to convert to low-water-use landscaping and install "smart" irrigation controllers, and water-waste ordinances.

Sponsor: Representative C Miranda

Last Action: Assigned to House Water

SB1219: Drought Emergency Groundwater Transfers

SB1219 provides an exemption to the prohibition on the transportation away from a groundwater basin during declared drought emergencies. A similar provision has passed as session law frequently in the past decade. The exemption would apply only outside of an Active Management Area (AMA).

The bill includes ten conditions, all of which must be met in order to trigger the transportation authority:

1. The Governor has declared an emergency due to lack of precipitation or a water shortage pursuant to ARS35-192.
2. The groundwater to be transferred is drawn from a well that is in existence on the date of the Governor's Declaration of Emergency.
3. The city or town, if the well is located in a city or town, has consented to the groundwater withdrawal.
4. If the well is located in a political subdivision established pursuant to title 48, chapter 17 or 19, that political subdivision has consented to the groundwater withdrawal.
5. If the water is to be transported from one county to another, the county of origin has consented to the groundwater withdrawal.
6. The groundwater is to be transported only by motor vehicle or train.
7. The groundwater transportation is necessary to provide water supplies for domestic, stock watering or potable municipal water service in a location included in the emergency declaration.
8. The groundwater transported will be used only for domestic, stock water or potable municipal water service purposes.
9. The county, city, town or other political subdivision within which the transported water is to be used has implemented an emergency conservation plan sufficient to prevent the nonessential use of groundwater.
10. The groundwater will not be used in an active management area.

If all of the conditions are met, the Director is directed to approve the application and that approval is valid for six months, or until the Director determines that the transportation of groundwater is no longer necessary. The approval may be continued, upon request, for an additional six months if the Director determines that the conditions remain in effect. Groundwater transported pursuant to this act would be subject to the payment of damages and may not be transported to subsidize insufficient supplies due to continued growth or deficient base water supplies. See also SB1566 and HB2393.

Sponsor: Senator Allen

Last Action: Assigned to Senate Water

SB1293: Dams; Affidavit; Recording S/E Property Taxes; Lodging

SB1293 requires the owner of a completed dam to record a copy of its affidavit to the ADWR Director. The copy of the affidavit would be recorded with the ARS 45-1209 requires a dam owner to file an affidavit of the costs of the dam or alterations to a dam. These costs are defined in ARS 45-1204 to include labor and materials for the dam and appurtenant works, investigative costs, surveys, the construction plant and any other costs that are “properly included in the cost of the dam.” These costs are part of the calculation of filing fees for dam applications. According to statute, a filing fee for a dam application is not to exceed two percent of the estimated cost of the dam.

SB1293 was stricken in House Water with language relating to property taxes on bed & breakfast facilities.

Sponsor: Senator Griffin

Last Action: Signed by the Governor. (Chapter 232, Laws 2011)

SB1294: AWBA Report S/E Aquatic Poisons

SB1294 changes the due date for the Arizona Water Banking Authority's annual report to March 1. The AWBA is currently required to issue its annual report by July 1 of each year. Statute requires the annual report to include:

1. An accounting of all monies expended from the water bank fund.
2. An accounting of all monies that remain available in the water bank fund.
3. The amount of water stored by the bank.
4. The number of long-term storage credits distributed or extinguished by the bank.
5. The purposes for which long-term storage credits were distributed or extinguished by the bank.
6. A description of the water banking services and interstate water banking to be undertaken in the next 10 years and the projected capacity to undertake those services in addition to storing CAP water for the protection of Municipal and Industrial uses against shortages or disruptions, fulfilling the state's groundwater management objectives and implementation of Indian water settlements.
7. Any other matter determined by the AWBA board to be relevant to the policy and purposes the Water Bank.

The Arizona Water Banking Authority was established in 1996 to enable the state to utilize and protect its entitlement to Colorado River water. The Water Bank Authority Commission consists of the ADWR Director, the CAWCD President, and three members appointed by the Governor. The Governor's appointees include a person with water resource management knowledge, a person representing a CAP M&I subcontractor and a person representing an entity located in a county next to the Colorado River and who holds a contract for Colorado River water. Commissioners serve six-year renewable terms.

SB1294 was stricken in Senate Water with language that prohibited the use of Rotenone and Antimycin-A until a full impact analysis is conducted and approved by ADEQ for each application.

Sponsor: Senator Griffin

Last Action: Assigned to House Energy & Natural Resources

SB1470: County Water Authority; Repeal

SB1470 would repeal the chapter of Arizona law (Title 45, Chapter 13) that permits the establishment of a county water authority in a county with a population between 90,000 and 100,000 at the time of formation of the authority according to the preceding census. The authority membership is comprised of municipal corporations that held contracts with the United States for Colorado River water in January 1993.

SB1470 provides that the authority shall be dissolved if all of its debts and contractual obligations are satisfied and another governmental entity accepts dedication of the authority's assets.

SB1470 provides that the members of the Authority are to adopt a termination plan to execute the dissolution of the Authority within six months. The plan is required to provide for the return of water rights to the municipalities that transferred the rights to the authority at its formation, subject to approval by the Secretary of the Interior.

Any property that is not dedicated to another governmental entity is to be transferred to the department of water resources for use in that county. All monies in the grant fund are to be distributed pursuant to statute and all other unencumbered and unexpended monies remaining in the authority's accounts are to be distributed according to the termination plan adopted by the Authority.

This bill appears to be targeted at the Mohave County Water Authority. The Mohave County Water Authority was established in 1995 in order to ensure the full beneficial use of 18,500 acre-feet of Colorado River main-stream water to which the City of Kingman was entitled. The Kingman allocation was divided up among the members of the authority and put to use. The Mohave County Water Authority also acquires other long-term supplies for its members and acquires water bank credits to use as protection against Colorado River shortages. Proceeds from the transfer of the allocation were used by Kingman to develop its groundwater supplies.

Sponsor: Senator Gould

Last Action: Assigned to House Water

SB1522: Harvested Rainwater; Recharge S/E Harvest Rainwater Study Committee

SB1522 would permit pumping to recover 50% of a base amount of “harvested” rainwater determined by the Director of water resources. The bill would require the Director to establish rules for making the calculation and to provide for measurement and verification over a 5-year period.

The bill would define “harvested water” as rainfall that is captured before reaching a natural channel, drainage way or navigable waterway.

This bill raises numerous implementation and water management questions. The most basic of which is whether this water source, or portions of it, is already accounted for in the natural recharge estimates and pumping rights within an active management area. One may also question whether it is appropriate to create a groundwater pumping demand on the aquifers for water that may otherwise become surface water.

This bill was not presented to or discussed by the water stakeholders at the water rump group meetings this past fall. This bill raises a number of complex and interrelated issues that would be better discussed and resolved through a thorough stakeholder process.

SB1522 was stricken in House Water with language to create a study committee comprised of water experts from around the state. The Committee was to be charged with examining the science behind and legal implications of large scale storm water harvesting.

The bill did not get a hearing in House Rules.

Sponsor: Senator Pierce

Last Action: Pass House Water with S/E related to Rainwater Harvesting Study Committee.

SB1566: Emergency Exempt Wells; Groundwater Transfers

SB1566 provides an additional exemption to the prohibition on exempt wells within the service area of an Assured Water Supply designated municipal water distribution system. The bill would allow, with written consent of the distribution system, the use of an exempt well on land zoned for agricultural uses during an emergency temporary system outage (as determined by the provider) for the sole purpose of livestock watering.

Well usage would be required to be measured by an ADWR approved device. The well would be subject to inspection and record keeping requirements by the municipal provider. SB1566 would add recovery wells to the types of wells that ADWR does not need to consider the impact on exempt wells when approving or disapproving an action.

AMWUA is generally wary of the proliferation of exempt wells within the service area of a designated Assured Water Supply provider and has established as a policy principle to oppose measures that would result in increased groundwater mining. AMWUA also supports measurement of wells and water supplies.

While this bill does permit another limited exemption for exempt wells, it does provide a mechanism for consent by the water provider, water measuring requirements, and record keeping.

The House engrossed version of the bill also contains the annual session law that permits, pursuant to a series of conditions, the transfer of groundwater outside an AMA during a declared drought emergency.

Sponsor: McComish

Last Action: 3rd read in House; was not Final read in Senate.

SCR1015: Jurisdiction Over Intrastate Waters

SCR1015 is a State Constitutional referral that would have granted primary authority over intrastate waters to the State of Arizona. The same language has been introduced in previous legislative sessions and is an attempt to preempt the federal Clean Water Act and congressional proposals to amend the Clean Water Act to expand its applicability.

Sponsor: Senator Allen

Last Action: Passed the Senate

Water-Related Technical Corrections and Striker Vehicles

Bill Title – Disposition

HB2119: Technical Correction; Groundwater Permits – Introduced

HB2120: Technical Correction; APA; Water – Introduced

HB2136: Technical Correction; Water Quality Fund (NOW: Fee Commission) – Stricken with language related to state agency fee commission (see also HB2314). Failed Senate 10-19.

HB2279: Technical Correction; Water Protection – Proposed striker related to Renewable Energy Credits. Held in HWE.

HB2325: Technical Correction; Water Exchanges – Introduced

HB2326: Technical Correction; AMAs – Introduced

HB2327: Technical Correction; Water Resources – Introduced

SB1090: Technical Correction; Water Quality – Proposed striker related to Endangered Species. HELD in SBSFSS

SB1091: Technical Correction; Dry Wells – Introduced

Regulatory Bills Enacted

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SB1322: Cities; Services; Managed Competition	67
SB1328: Federal Requirements; Compliance	73
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SB1393: Greenhouse Gas Regulations	74
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SB1496: Aggregates; City Planning	75
SB1533: Renewable Energy Districts	75
SCR1032: Tax; Supermajority	76
SCR1039: Property Tax Levy Increase; Limit	76
SB1624: Environment; Budget Reconciliation	78

HB2005: Subdivisions; Acting in Concert

HB2005 specifies that a familial relationship is not by itself evidence of acting in concert for unlawful subdividing. The bill exempts sales that occur more than 10 years apart from the subdivision regulation unless the real estate commissioner finds intent to subdivide. The bill also makes other changes relating to subdivision regulation by the real estate department.

Sponsor: Representative Burges

Last Action: Signed by the Governor (Chapter 328, Laws 2011)

HB2193: Water Charges; Responsibility

HB2193 further restricts the legal responsibility for payment of water and wastewater charges to a person who contracted for the service by specifying that that person must reside at the property and receives the service. The bill also provides that a property owner, immediate family member or any other entity may enter into, and accept responsibility for, a contract with a municipality for water and wastewater services. The bill also prohibits the refusal of service except to those persons identified as responsible.

This bill is a follow up to HB2450 (Water & Wastewater charges; Chapter 320, Laws 2010) that passed in 2010. HB2450 established the restrictions on collection of debts on unpaid services to residential properties of less than 4 units.

Sponsor: Representative Jim Weiers

Last Action: Signed by the Governor (Chapter 279, Laws 2011)

HB2274: IGAs; Separate Entities

Permits Indian Tribes to participate in Joint Action Agencies established by other political subdivisions and special taxing districts.

Sponsor: Representative Pratt

Last Action: Signed by the Governor (Chapter 330, Laws 2011)

HB2314: Boating Safety (State Agency Fee Commission)

HB2314 establishes the State Agency Fee Commission as a 10-year agency that is tasked with reviewing state agency fees on a 5-year rotating cycle. The Commission is comprised of public and private members, including OSPB. The commission is tasked with reviewing the appropriateness of fees and evaluating the impact of fund sweeps on services provided by the agencies. This is a follow up to the fee commission established as session law by HB2486 in 2010 that did not meet.

Sponsor: Representative Jones

Last Action: Signed by the Governor (Chapter 333, Laws 2011)

HB2665: Environment; Regulatory Changes

HB2665 makes numerous changes relating to air quality monitoring and site inspections. No known impact to water.

Sponsor: Representative Reeve

Last Action: Signed by the Governor (Chapter 291, Laws 2011)

SB1110: Navigable Stream Adjudication Commission; Extension

SB1110: Navigable Stream Adjudication Commission; Extension extends the sunset date for the NSAC and its members by two years from June 30, 2012 to June 30, 2016. The bill also changes the date at which unexpended appropriated funds revert to the State General Fund from July 1, 2012, to July 1, 2016 to conform with the proposed new sunset date.

The Arizona Navigable Stream Adjudication Commission is a five-member commission appointed by the Governor. No more than three of the five commission members may belong to the same political party. Statute requires persons being appointed to the NSAC must be “well informed on issues relating the rivers and streams in this state.” Statute precludes persons who have advocated or expressed a desire for a watercourse in Arizona to be deemed navigable or non-navigable from service as an ANSAC Commissioner. Statute also prohibits commission members from having a bias regarding any water course, owning or profiting from lands affected by the Commission’s activities, being employed by or earn income from a person who owns or profits from lands affected by the Commission’s jurisdiction.

The ANSAC’s mission is to hear evidence and make a determination as to the navigability of each of Arizona’s 39,039 water courses. The NSAC does not determine water use, ownership or diversion matters. There are more than 100,000 property titles that are impacted by the ANSAC’s findings. Navigable streambeds at the time of statehood are subject to government ownership, while non-navigable streambeds may be owned by private entities. The NSAC has found that all of Arizona’s watercourses were non-navigable at the time of statehood.

According to the ANSAC website (AZstreambeds.gov), the results of 6 of NSAC’s hearings on 17 major water courses are under appeal in Arizona courts. These include the Lower Salt River, San Pedro River, Santa Cruz River, Upper Salt River, Verde River and Gila River.

In the event a watercourse is found to be navigable, the ANSAC is tasked with determining the public trust value of the watercourse.

Sponsor: Senator Reagan

Last Action: Signed by the Governor (Chapter 39, Laws 2011)

SB1171: Cities; Counties; Wastewater System Acquisition

SB1171 would allow a city or town that has received voter approval to operate a wastewater utility to acquire all or any portion of a county-owned sewer system serving the city. Title to all sewer infrastructure located within the city limits is to be transferred to the city at its request. Title to treatment facilities would be transferred to the city at its request, if at least 75% of the sewage treated at the facility originates from that city. The facilities to be transferred may be outside of the city limits. Title to treatment capacity of any county treatment facility shall be transferred at the city's request to the extent that capacity is committed to treating sewage originating from within the city.

Upon receipt of the request of transfer of title, the county has up to 180 days to execute the transfer. The city shall pay or assume all the outstanding debt attributable to the infrastructure or capacity and the county is prohibited from incurring new debt on the infrastructure after the request for transfer has been made.

SB1171 requires, unless otherwise provided in an IGA, the city to assume all the operational costs and maintenance of the transferred facilities and requires the city to assume responsibility for all billing or invoicing of customers served by the transferred facilities.

The bill would permit the county to convey sewage from its remaining customers through the system, but requires the county to pay the actual costs of doing so and provides reciprocity for the city with respect to county-operated facilities. At any facilities not transferred to the city, the county would be required to continue operating and the city would be required to pay the county for the actual costs of the service. The bill similarly requires the city to treat sewage from county customers, but requires the county to pay the actual costs of the service.

Sponsor: Senator Antenori

Last Action: Signed by the Governor (Chapter 146, Laws 2011)

SB1525: Development Fees

SB1525 makes numerous changes to cities impact fee programs. The bill requires infrastructure to be provided within 10 years of the assessment of the fee and provides for a refund mechanism to the property owner in the even this condition is not met. The bill also limits the allowable projects for which impact fees may be assessed and provides restrictions on how the fee amount may be calculated.

Sponsor: Senator Pearce

Last Action: Signed by the Governor (Chapter 243, Laws 2011)

SB1598: Cities; Counties; Regulatory Review

SB1598 provides for numerous regulatory process changes at the local level. It also includes a requirement for local governments to include aggregates in their general plans or comprehensive plans. AMWUA and others worked with the bill's proponents to ensure that this general plan component would not interfere with underground water storage facilities.

Sponsor: Senator Klein

Last Action: Signed by the Governor (Chapter 312, Laws 2011)

SB1612: General Appropriations; FY 2012

SB1612 provides for the appropriations of monies to the various state agencies, including ADWR and ADEQ.

ADWR is budgeted at \$12.94 million (see Detail in AMWUA Legislative Summary)

Sponsor: Senator Biggs

Last Action: Signed by the Governor (Chapter 24, Laws 2011)

SB1624: Environment; BRB

SB1624 is the budget reconciliation bill (BRB) for the state's environmental programs. It is an omnibus of conforming and policy changes that are related (usually) to items in the budget (SB1612) general appropriations bill.

SB1624 contained the provisions of SB1193 relating to conforming changes for federal laws relating to reportable hazardous releases. It also contains the permanent enactment of the tax on cities to fund ADWR (section 2) and the session law that places the \$7M cap on ADWR fees for FY2012 (section 7).

The bill also permanently removes general fund support for the Arizona Water Protection Fund and provides session law changes to WQARF and other programs.

Sponsor: Senator Biggs

Last Action: Signed by the Governor (Chapter 36, Laws 2011)

SCR1033: Best Available Control Technology

Whereas, the United States environmental protection agency (EPA) is in the process of adopting rules for the regulation of greenhouse gas emissions under the Federal Clean Air Act; and

Whereas, if EPA adopts these rules as proposed, major new sources of electric generation will be mandated to obtain prevention of significant deterioration (PSD) permits setting forth best available control technology requirements for greenhouse gases; and

Whereas, major uncertainty exists because trial technologies, such as carbon capture and sequestration or integrated gasification combined cycle power plants, which hold significant prospect to reduce greenhouse gas emissions, are still years away from being proven to be economically practicable or commercially available; and

Whereas, this uncertainty could paralyze the long-term planning and development of new electric generating units in this state at a time when the economy faces a critical void in the coming years of the electric power needed to support economic recovery and growth; and

Whereas, highly efficient power technologies, such as super-critical and ultra super-critical coal-fired electric generating units, represent a significant advancement over earlier generation coal units in terms of efficient use of coal and in reductions of emissions, and may be compatible with carbon capture and sequestration systems when they become commercially viable, which will lead to even further greenhouse gas reductions; and

Whereas, these super-critical technologies are already demonstrated to serve the dual purpose of reducing the overall emissions profile of the electricity generation unit while providing efficient, affordable and available power today and into the future; and

Whereas, it is in Arizona's best interest to support the continued use of these advanced and available technologies that take advantage of existing coal reserves to offer this state significant environmental and economic advantages, rather than hampering development of critically needed baseload electricity supply or resort fully to less efficient and more expensive technologies.

Therefore, be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

That the members of the Legislature urge the department of environmental quality, in issuing PSD permits for new conventional coal-fueled electric generating units, and consistent with otherwise applicable law, fully consider:

1. The need to act expeditiously in accordance with the state's need to develop new electric generation; and
2. The use of commercially available technologies that are designed to be as efficient as is economically practicable, including advanced super-critical pulverized coal, ultra super-critical pulverized coal, and that are designed to be carbon capture-compatible and sequestration-compatible, as potential best available control technology.

Sponsor: Senator Allen

Last Action: Transmitted to Secretary of State

Regulatory Bills Not Enacted

HB2009: Disclaimer of Federal Patent Easement	62
HB2077: Federal Agencies; Registration with Sheriff	62
HB2108: Development Fees; Codes; Moratorium; Repeal	62
HB2122: Energy Policy Study Committee	62
HB2216: State Agency Standards; Federal Requirements	63
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HB2485: Government Land; Replacing Private Land S/E Government Land Study Committee S/E Liquid Petroleum Gas	63
HB2501: Rules; Laws; Ordinances; Interpretation	64
HB2502: Public Programs; Advertisement; Funding Source	64
HB2578: Development Agreements; Moratorium	64
HB2653: Unfunded Mandates	65
HCR2007: Development Fees; Authority	65
HCR2012: Legislation; Statement of Constitutional Authority	65
SB1157: S/E Water Charges Responsibility S/E Presidential Candidate Eligibility	65
SB1172: Energy and Water Savings Accounts S/E Same Subject	66
SB1286: Counties; Cities; Permits; Timeframes	66
SB1319: Government Land; Restoring Private Land	66
SB1322: Cities; Services; Managed Competition	67
SB1328: Federal Requirements; Compliance	73
SB1339: Administrative Rules; Repeal	73
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SB1393: Greenhouse Gas Regulations	74

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SB1433: Federal Legislation; Nullification	75
SB1463: Political Subdivisions; Economic Estimates	75
SB1496: Aggregates; City Planning	75
SB1533: Renewable Energy Districts	75
SCR1032: Tax; Supermajority	76
SCR1039: Property Tax Levy Increase; Limit	76

HB2009: Disclaimer of Federal Patent Easement

This bill prohibits a city or town from allowing or approving a permanent structure on a federal general land office patent easement. This bill raises concerns about whether utility facilities, such as water lines, would be considered prohibited permanent structures. It makes changes to the process by which a city or town may abandon a federal patent easement and it specifies that the repeal of the 1938 Small Tract Act does not affect terms of patents or deeds issued prior to the repeal.

Sponsor: Representative Harper

Last Action: House Government HELD

HB2077: Federal Agencies; Registration with Sheriff

HB2077 requires any federal agency conducting business in a county to register with the county sheriff. The bill permits the sheriff to impose a fee for registration. Requires any registered federal agency to forward to the sheriff all monies collected as a result of fees, fines or penalties. The sheriff shall forward those monies to the State General Fund. This bill may impact the U.S. Bureau of Reclamation operations in Arizona. Prop 108 possible. HGOV AMENDED: Limits to “Federal Regulatory” agencies.

Sponsor: Representative Crandell

Last Action: House Rules HELD

HB2108: Development Fees; Codes; Moratorium; Repeal

The bill repeals the moratorium on increased impact fees that are currently in place through 2012 and repeals the 24-month fee effective date delay.

Sponsor: Representative Campbell

Last Action: Assigned to House Government and House Commerce

HB2122: Energy Policy Study Committee

Establishes a commission to review and propose state energy policies. The commission would be required to report by September 2013.

Sponsor: Representative Patterson

Last Action: Assigned to House Energy and House Environment

HB2216: State Agency Standards; Federal Requirements

HB2216 preempts all other state laws and prohibits state agencies from adopting any standard, rule or requirement that is “more stringent than a corresponding federal law.” The bill directs the Governor to enforce the provisions directly or through the Governor’s Regulatory Review Council, as appropriate.

This bill raises a question as to this standard is to be applied in the absence of a federal law on the topic. For example, the management surface and groundwater use rights is not the domain of the federal government and therefore there is no “corresponding federal law” on such matters. The adoption of rules by the agency is important to the consistent application of the agency’s statutory authority. A blanket removal of rulemaking authority from an agency like the department of Water Resources would be very damaging to the rights and investments of water users throughout the state, including the more than 3 million residents and businesses within the service areas of AMWUA’s members.

Sponsor: Representative Fillmore

Last Action: Assigned to House Government

HB2471: Federal Mandates; Proof of Constitutionality

The Legislature is prohibited from appropriating state monies to comply with a federal mandate unless the federal mandate includes a report that specifies a “reasonable and logical” argument for why the mandate would pass a constitutional challenge in the courts. The report required in the federal mandate must include a statement of whether the mandate violates the “sovereign rights” of the state as guaranteed by the Tenth Amendment.

Sponsor: Representative Gowan

Last Action: Pass House COW

HB2485: ~~Government Land; Replacing Private Land S/E Government Land Study Committee S/E Liquid Petroleum Gas~~

Senate S/E Proposed: relating to liability in liquid petroleum gas emergency events.

The underlying bill requires any government agency that purchases or condemns private property to pay in-lieu tax to the jurisdictions impacted by that purchase. HB2485 requires the government agency to report the terms of the acquisition to the State Land Department. If the purchase of private property reduces the appraised value of private property in the county, the purchaser is required to transfer property of an equivalent value back to the private sector. The bill prohibits a person from voluntarily conveying property to a government agency unless the conveyance is conditioned on the government paying the in-lieu tax. It makes the state and the county in which the property is located become

“parties in interest” to the conveyance and are authorized to sue to enforce provisions of the conveyance. (See 1319) S/E HNR: Creates a study committee to review effects of government land acquisitions.

Sponsor: Representative Gowan

Last Action: Senate Adopted Conference Report. House did not adopt.

HB2501: Rules; Laws; Ordinances; Interpretation

Any rule, law or ordinance that is ambiguous must be construed in favor of the person who challenges it. Amendment narrows application to permits, licensing, and zoning. Rules amendment w/d. Substitute floor amendment exempts agencies that go through the state rules adoption process.

Sponsor: Representative Vogt

Last Action: Senate COW Retained

HB2502: Public Programs; Advertisement; Funding Source

HB2502 requires that any public agency or any organization that receives more than 50% of its revenues from state, federal or local taxes must place a disclosure on media or communications that advertise a program. SGov amendment clarifies exemption for communications that solicit monies or that already have a disclosure.

Sponsor: Representative Seel

Last Action: VETOED

HB2578: Development Agreements; Moratorium

HB2578 prohibits a development agreement from being amended by the parties to increase development fees.

Sponsor: Representative Fillmore

Last Action: Assigned to House Government

HB2653: Unfunded Mandates

This bill would prohibit a law from taking effect that requires a city to provide a service or take an action where the legislature does not provide a funding source.

Sponsor: Representative R Miranda

Last Action: Assigned to House Government

HCR2007: Development Fees; Authority

This measure refers a constitutional amendment to voters that would grant exclusive domain over impact fees to cities.

Sponsor: Representative Campbell

Last Action: Introduced

HCR2012: Legislation; Statement of Constitutional Authority

Refers to the ballot a constitutional amendment that would require each piece of legislation that is introduced to carry a statement of the legislature's authority to introduce or enact the bill.

Sponsor: Representative Seel

Last Action: Introduced

SB1157 S/E Water Charges Responsibility S/E Presidential Candidate Eligibility HGov S/E relating to Candidate Eligibility

Underlying S/E amendment specifies that a property owner is not responsible for wastewater or garbage collection service charges, unless the property owner contracted for the service.

Sponsor: Senator Griffin

Last Action: House COW retained

SB1172: Energy and Water Savings Accounts S/E Same Subject

This bill permits a city, county or school district to enter into an agreement with a service provider to establish an energy and water savings account via a method similar to a performance contract.

Strike-everything amendment is on the same subject.

Sponsor: Senator Nelson

Last Action: FAILED Senate Water

SB1286: Counties; Cities; Permits; Timeframes

Requires a county or city to approve or disapprove a permit or license application within 60 days of the completed application being submitted. HGOV amendment: allows 60 day extension and requires the city to provide notice of incomplete application within 30 days.

Sponsor: Senator Klein

Last Action: House Rules OK

SB1319: Government Land; Restoring Private Land

SB1319 requires any government agency that purchases or condemns private property to pay in-lieu tax to the jurisdictions impacted by that purchase. The bill requires the government agency to report the terms of the acquisition to the State Land Department. If the purchase of private property reduces the appraised value of private property in the county, the purchaser is required to transfer property of an equivalent value back to the private sector. It prohibits a person from voluntarily conveying property to a government agency unless the conveyance is conditioned upon the government paying the in-lieu tax. The bill makes the state and the county in which the property is located become “parties in interest” to the conveyance and are authorized to sue to enforce provisions of the conveyance. (see also HB2485)

Sponsor: Senator Griffin

Last Action: Senate Water HELD

SB1322: Cities; Services; Managed Competition

SB1322 requires cities with a population greater than 500,000 to put any (excluding public safety and judicial) services, direct or indirect, with a value of greater than \$50,000 out to bid. The Senate Gov S/E amendment lowers the population threshold to 200,000. The Senate floor amendment returned the threshold to 500k population and \$75,000 value. The House COW amendment raises the contracting value threshold to \$500,000; inserts legislative intent on statewide concern; authorizes regional authorities to bid on services, permits a city to issue the award to best value, but requires the city to list/ specifically the material reasons why the award was not made to the low bidder; and prohibits the city from disaggregating elements of service to avoid the contracting requirements.

The bill also allows applicants for permits or inspections to select their own provider, reviewer or inspector.

AMWUA strongly opposed this measure. AMWUA's veto request letter follows, as does the Governor's veto message.

Sponsor: Senator Antenori

Last Action: VETOED

April 20, 2011

The Honorable Janice K Brewer
Office of the Governor
1700 West Washington Street
Phoenix, Arizona 85007

RE: SB1322: Cities; Managed Competition

Dear Governor Brewer,

The Arizona Municipal Water Users Association respectfully requests your opposition to and veto of SB1322: Cities; Managed Competition. AMWUA does not make this request lightly; rather our membership regrets being opposed to a bill that at first glance would encourage cities to provide more of their services to constituents by way of private contractor. AMWUA members, comprised of the ten largest publicly operated water utilities in Maricopa County, have long seized opportunities to utilize the services of contractors when that is a sensible way to meet the needs of our ratepayers.

Unfortunately, SB1322, upon more thorough review, is not that at all. SB1322 is, instead, a costly and ill-conceived measure that will do far more to undermine cost-effective and accountable services to city residents than it will do to the benefit of taxpayers or ratepayers. We will leave to others the discussion of this bill's many fatal flaws, but AMWUA would like to share with you some of the ways in which SB1322 would affect some of the more than three million Arizonans who get their water from AMWUA members.

First, water systems require significant and expensive infrastructure. This infrastructure ranges from recharge facilities that are used to store water that protect us from drought, to the water mains that deliver clean and safe water to homes and businesses. It also includes construction and management of highly technical facilities, such as water treatment plants and wastewater treatment plants. A water treatment facility or wastewater treatment facility can cost upwards of a billion dollars and often costs hundreds of millions of dollars. In order to keep costs low for homeowners and businesses that rely on our water and wastewater services, this infrastructure is often financed with tax-exempt bonds. SB1322 puts this low cost financing in jeopardy by forcing cities to run afoul of IRS rules that ensure that tax-exempt status. Loss of such status would result in legal costs and, more dramatically, much higher interest rates for ratepayers. In an apparent attempt to pacify opposition to the bill, the House added language that obfuscates the very serious issue of tax-exempt bonds. This language, inserted without consultation with those who would be affected, is inadequate to prevent the problems this bill would create in managing these large and very complicated systems for the benefit of our residents.

SB1322's proponents claim that the bill must be enacted in order to keep down costs for taxpayers. AMWUA member utilities, which operate as enterprises that base their rates on cost recovery and not profit, feature the most competitive rates in the nation. According to the Arizona Water Infrastructure Finance Authority's 2009 Rate Survey, the City of Phoenix's water rates were among the lowest, if not the lowest, in the valley and in the State. Phoenix water rates were often half or less than half of the rates of surrounding private water companies. AMWUA members keep rates low by effective management of their infrastructure, personnel, and water rights. In contrast, SB1322 would force a

cumbersome contracting process that would be extremely costly without a benefit to ratepayers. Those costs would be lost, rather than be used to keep down rates or to make investments in systems that keep rates low in the long term.

Even more troubling than the financial burdens that SB1322 would place on our members' ratepayers, are the impacts to effective management of our water supplies. As you know, water in Arizona is both precious and very complicated. In our desert climate, the availability of clean, safe and on-demand water is the result of decades of planning and carefully negotiated agreements among many parties – federal, interstate and intrastate. AMWUA member residents and businesses rely on water from multiple sources – the Colorado River, surface water, groundwater, and effluent. AMWUA member utilities work diligently to protect the water supplies and rights for their service areas. This ensures a stable environment for economic growth and vitality. SB1322 would contract-out the elements within our utilities that are responsible for examining and responding to policies, regulations, and proposals that may affect our water rights. A highly trained and experienced staff working for the best interest of their community is vital to ensuring that the visionary water planning that is essential to our economic development will remain in place into the future. In the event of a change of contractor – because of re-bidding or contractor bankruptcy – the city and its customers would be left without that critical internal competency.

The private sector entities that may be competent to take over AMWUA members' large water utilities would surely have conflicts of interests because of the tensions among all the water users in the state. This is unacceptable and, under SB1322, unavoidable. An out-of-state or foreign entity would not have the institutional knowledge to provide appropriate guidance on these matters. Moreover, once these water-related services are outsourced, there would be no one left within the city organization with the skills and knowledge to hold the contractor accountable for these conflicts of interest. The elected officials who oversee these public utilities would be deprived of the information they need to protect the interests of our residents. Additionally, SB1322 seems to have been drafted to prevent separation of functions that would enable the city to retain those checks and balances (page one, line 40 re prohibition on disaggregation of related services).

We are further concerned about what SB1322 may mean for participation in future public-private partnerships or efforts in which AMWUA members may wish to participate with other public and private entities for the acquisition of water supplies to meet the needs of residents and industry over the coming decades. SB1322 appears to prevent participation in such programs because of the extraordinarily broad definition of services (page one, lines 11-17 re “furnished directly or indirectly...for the benefit of the public or its residents.”)

AMWUA prides itself on being a reasonable partner in this State's future. For more than 40 years, AMWUA has been a voice of compromise and rational, solutions-based policy making. This year we have negotiated and participated in improving many bills so that they can work for the best interests of our residents and the interests of others. Unfortunately, SB1322 has not been responsive to the calls of AMWUA and others for a rational solution that will provide certainty and protections for the residents and the business community our members serve.

The issues discussed in this letter are but a few of the many costly consequences to which Arizonans would be subjected under this Trojan Horse of “savings.” This bill does a disservice to the taxpayers and ratepayers who have been well served by local governments that prudently manage their responsibilities and fulfill the expectations of their constituents. It does a further disservice to the

efforts of local governments, such as Phoenix, to incorporate contracting and privatization into their management philosophies and practices.

For these reasons, and the many articulated so well by others, AMWUA respectfully urges you to reject SB1322 and foster a responsible approach to government contracting that will truly serve Arizona's interests.

STATE OF ARIZONA

JANICE K. BREWER

EXECUTIVE OFFICE

GOVERNOR

April 28, 2011

The Honorable Ken Bennett

Secretary of State

1700 W. Washington, 7th Floor

Phoenix, Arizona 85007

RE: Senate Bill 1322 (managed competition; city services)

Dear Secretary Bennett,

Today I vetoed Senate Bill 1322. This bill requires the cities of Phoenix and Tucson to provide all municipal services with a cost greater than \$500,000 through an open bid contract.

I am a strong proponent of privatization and responsible stewardship in government and have a strong track record in this regard. As Governor, privatization is a key element in my Four Cornerstones of Reform. Under that plan, I have established the Arizona Commerce Authority and its private-sector leadership board as a highly privatized and highly accountable model for the delivery of statewide economic development services. Likewise, I created the Commission on Privatization and Efficiency to identify state services and agencies whose functions can be eliminated, consolidated, streamlined or outsourced to achieve greater operational efficiency in meeting the needs of our citizens.

Unfortunately, Senate Bill 1322, which started with a similar spirit of enhanced privatization and innovation, is riddled with shortcomings including the omission of vital definitions and the parameters by which anticipated cost is to be determined. The language also has potential for jeopardizing the tax exempt bond status of public buildings. Furthermore, local taxpayers expect careful oversight and accountability of justice and public safety functions such as court administration and crime lab staff. These are just a few examples of what would be privatized under this bill. City councils currently have the ability to outsource, and they do that when they determine it is in the best interest of the taxpayer.

While I can agree that all levels of government must continue to find ways to cut costs, I am becoming increasingly concerned that many bills introduced this session micromanage decisions best made at the local level. What happened to the conservative belief that the most effective, responsible and responsive government is government closest to the people" The citizens of Phoenix and Tucson formed their government and adopted a charter to guide it. This legislation erodes the ability of voters to receive services from the government they themselves formed with a responsiveness and accountability from the officials they themselves elected at the local level.

These shortcomings will surely result in unintended consequences to the taxpayer that this very bill declares to be protecting.

Sincerely,

Janice K. Brewer

Governor

cc: The Honorable Russell Pearce

The Honorable Andy Tobin

The Honorable Frank Antenori

Senate Secretary

Chief Clerk of the House of Representatives

SB1328: Federal Requirements; Compliance

This bill permits any resident of Arizona to choose not to comply with a federal law or rule if any federal employee or official is permitted not to comply with that law or rule.

Sponsor: Senator Antenori

Last Action: Assigned to Senate Government

SB1339: Administrative Rules; Repeal

SB1339 would repeal all agency rules that have “an impact on the private sector” effective December 31, 2012. The bill notwithstanding all state authorizing statutes and prohibits state agencies from adopting rules that may impact the private sector. The bill further requires that any agency rule that has an impact on the private sector must be enacted as statute by the Legislature.

SB1339 would define “the private sector” as any private business, private entity, or private property owner.

This bill would repeal all of the Department of Water Resources’ rules. These rules include those that protect surface water rights held by private entities and the protection of groundwater supplies throughout Arizona – including the San Pedro, Southern Arizona, the Verde.

This bill’s sweeping proposal to repeal all agency rules that could vaguely “impact” the private sector to even the slightest degree is dangerous to private property rights and the balanced approach to water management in Arizona that has provided a stable environment for growth and prosperity for over 30 years.

Sponsor: Senator Antenori

Last Action: FAILED Senate 3rd Read

SB1344: Water Charges; Responsibility

SB1344 further restricts the legal responsibility for payment of water and wastewater charges to a person who contracted for the service by specifying that that person must reside at the property and receives the service. The bill also provides that a property owner, immediate family member or any other entity may enter into, and accept responsibility for, a contract with a municipality for water and wastewater services.

This bill is a follow-up to HB2450 (Water & Wastewater charges; Chapter 320, Laws 2010) that passed in 2010. HB2450 established the restrictions on collection of debts on unpaid services to residential properties of less than 4 units.

Sponsor: Senator Antenori

Last Action: Assigned to Senate Government

SB1393: Greenhouse Gas Regulations

SB1393 attempts to notwithstanding federal law and regulations and declares that the state has the authority to regulate greenhouse gas emissions. The bill contains legislative intent language related to “Freedom to Breathe Act). Senate Floor amendment adds specific reference to PM2.5 and PM10.

AMWUA monitored this bill for potential impacts to the Navajo Generating Station.

Sponsor: Senator Allen

Last Action: Pass Senate 3rd Read

SB1394: Greenhouse Gas Emissions; Freedom to Breathe

SB1394 notwithstands state and federal law. The bill establishes terms of a multistate compact that would be entered into by the Governor. It requires reciprocity to other state’s “freedom to breathe” laws. It requires the governor to maintain a list of signatory states and requires the governor to provide citations of any freedom to breathe laws to signatory states. The bill contains various severability provisions.

AMWUA monitored SB1394 for potential impacts to Navajo Generating Station.

Sponsor: Senator Allen

Last Action: Assigned to House Environment

SB1395: Endangered Species; Compact

The bill provides for state participation in an interstate endangered species compact. It outlines general provisions that must be addressed in such a compact.

AMWUA monitored this bill for MSCP impacts, as well as other species conservation agreements. The Senate Floor Amendments and SBFS amendment relate to implementation of the pact, including criminal charges for enforcement of the Endangered Species Act. One of the floor amendments excluded Habitat Conservation Plans and related agreements.

Sponsor: Senator Allen

Last Action: Senate COW amended

SB1433: Federal Legislation; Nullification

SB1433 would establish a Joint Legislative Commission on the nullification of federal laws. It establishes a bipartisan, 14-member committee. The Senate floor amendment adds laws, mandates and executive orders to those items that are subject to review and expands the 8th paragraph of the legislative intent section.

Sponsor: Senator Klein

Last Action: FAILED Senate 3rd Read on Reconsideration

SB1463: Political Subdivisions; Economic Estimates

SB463 would adjust city expenditure limits to account for cost shifts from the State.

Sponsor: Senator Cajero Bedford

Last Action: Assigned to Senate Finance

SB1496: Aggregates; City Planning

SB1496 requires cities to include aggregate resources in general plan land-use components and identify policies to protect those resources from incompatible land-uses. Similar language was included in SB1598 and was amended to address AMWUA's concerns about conflicts with underground storage facilities.

Sponsor: Senator Allen

Last Action: Assigned to Senate Natural Resources

SB1533: Renewable Energy Districts

This bill would permit the creation of special districts to finance renewable energy and rainwater harvesting infrastructure.

Sponsor: Senator Melvin

Last Action: Assigned to Senate Commerce

SCR1032: Tax; Supermajority

SCR1032 proposes a state constitutional amendment that would require 60% supermajority for passage of any tax or rate increase referred to the ballot at the state or local levels.

Sponsor: Senator Griffin

Last Action: Pass Senate 3rd Read

SCR1039: Property Tax Levy Increase; Limit

This referral proposes a constitutional cap on levy growth at 2% annual. The measure contains an effective tax year 2013. It excludes property taxes pledged to bonded indebtedness issued or a long-term obligation established prior to January 2014. It allows single-year exemptions on 66% supermajority vote of electors. The limitation increases each year regardless of actual levy. The measure applies to all political subdivisions.

Sponsor: Senator Gould

Last Action: Assigned to Senate Finance

ADWR FY2012 Budget

\$12.94m Total Appropriated

\$7.94m Lump Sum
\$1.245m Adjudications
\$1.8m Assured/Adequate Water Supply Program
\$1.16m Rural Water Studies
\$406,000 Conservation & Drought
\$406,000 Automated Groundwater Monitoring

Fund Sources

\$6.257m General Fund
\$6.458m Water Resources Fund (fee programs -- see also SB1624 Environment BRB)
\$268,300 Assured Water Supply Admin Fund.

ADWR Fund Sweeps

Transfers \$312,000 from the Water Banking Fund
Transfers \$53,300 from the Water Protection Fund
Transfers \$92,500 from the Water Quality Fund
Transfers \$12,300 from the AWS admin Fund
Transfers \$52,400 from the Augmentation and Conservation Assistance Fund
Transfers \$376,500 from the Indirect Cost Recovery Fund
Transfers \$123,000 from the Well Administration and Enforcement Fund

Footnotes

ADWR is prohibited from transferring monies in or out of the AWS Administrative Fund. The amount appropriated for rural water studies must be used outside the AMAs for local water needs assessments and may not be used for any other purpose. ADWR is prohibited from transferring any monies in or out of the adjudication support fund.

Municipal Assessment

SB1624 Environment; Budget Reconciliation contained language that granted permanent authority to the ADWR Director to assess a "fee" from each municipality in the state in order to fund ADWR's general operations. This assessment is to be levied proportionately based on population. This assessment is charged without regard to status as a water provider and is not levied on unincorporated areas of the state. AMWUA's membership will pay approximately 60% of the total levy.

The statutory enactment is exempt from rulemaking by virtue of a "notwithstanding" clause and is not capped in statute. As a matter of session law, the assessment is capped at \$7 million for fiscal year 2012.

SB1624: Environment; Budget Reconciliation

Sec. 2. Title 45, chapter 1, article 1, Arizona Revised Statutes, is amended by adding section 45-118, to read:

45-118. Water resources; fee; municipalities

NOTWITHSTANDING ANY OTHER LAW, THE DIRECTOR OF THE DEPARTMENT MAY ASSESS AND COLLECT A FEE FROM EACH MUNICIPALITY IN THIS STATE. THE FEE SHALL BE ASSESSED PROPORTIONALLY BASED ON THE POPULATION OF EACH MUNICIPALITY. THE DIRECTOR SHALL DEPOSIT MONIES COLLECTED PURSUANT TO THIS SECTION IN THE WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

Sec. 7. Water resources fees; deposit; fiscal year 2011-2012; intent; exemption from rule making

A. Notwithstanding any other law, the director of the department of water resources may increase fees in fiscal year 2011-2012 for services in fiscal year 2011-2012, except that no fees may be increased pursuant to this subsection for any municipality subject to the fee assessed and collected pursuant to section 45-118, Arizona Revised Statutes, as added by this act.

B. It is the intent of the legislature that the revenue generated by the fees collected pursuant to subsection A of this section and section 45-118, Arizona Revised Statutes, as added by this act, shall not exceed \$7,000,000.

C. The department of water resources is exempt from the rule making requirements of title 41, chapter 6, Arizona Revised Statutes, for the purpose of establishing fees pursuant to this section and section 45-118, Arizona Revised Statutes, as added by this act, until July 1, 2012.

AMWUA Policy Statements

The Board of Directors of the Arizona Municipal Water Users Association:

- Supports the 1980 Groundwater Management Act and its goal to achieve safe-yield.
- Opposes legislation, policies, or regulations that would result in increased groundwater mining or impedes efforts to achieve safe-yield.
- Asserts that water resources development must be safe and sustainable, be efficient, not impact existing water rights, feature measurement and monitoring of the resource, and be paid for by those who benefit from the resource.
- Supports the ability of local water providers to manage, plan, and acquire water resources for their customers that will promote economic development and quality of life.
- Supports legislation, policies, and regulations that promote sound aquifer management.
- Supports a capable and effective Arizona Department of Water Resources.

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