



# Staff Report

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**Agenda Item:**            **FY 2010 ARIZONA STATE BUDGET - -** Discussion regarding recent actions by the legislature and Governor relating to the FY 2010 budget.

**Staff Contact:**            Gayle Mabery, Town Manager

**Meeting Date:**            September 22, 2009

**Background:**            Governor Brewer signed several portions of the budget bill that had been forwarded to her by the legislature prior to the September 5<sup>th</sup> deadline for her to act. Attached is a synopsis prepared by the League of Arizona Cities and Towns relating to the budget bills with specific emphasis on the budget's impact to Arizona cities and towns.

**Recommendation:**      This is discussion only, no action is required.

# League of Arizona Cities AND Towns

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Legislative Bulletin is published by the League of Arizona Cities and Towns. Forward your comments or suggestions to:

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### IMPACT FEES BILL SIGNED BY GOVERNOR; VLT TRANSFER VETOED

Last Friday, Governor Brewer announced that she vetoed Senate Bill 1025, which contained the state property tax repeal, the shift of city vehicle license tax (VLT) to school districts and the change to the business property assessment ratio. We are very pleased the Governor took action to remove the VLT provision in order to not put the state's financial burden on cities and towns.

The Governor did sign House Bill 2008, which contains the provisions on public benefit administration, impact fees, building codes and construction sales tax. In-depth explanations of those provisions are as follows [Note: We are very grateful to former League staffer Cheyenne Walsh for her invaluable assistance on this analysis]:

#### Public Benefit Documentation (HB 2008, Sec. 1)

Any city or town that administers a federal public benefit program that requires participants to be citizens must require that the participants demonstrate lawful presence in the United States. If a city or town employee does not report discovered violations of federal immigration law, that employee and the employee's supervisor can be charged with a class 2 misdemeanor. Finally, residents of Arizona are given a private right of action to "remedy" any entities that are in violation of these provisions.

Sec. 2 of the bill applies the same mandates and penalties to state and local benefits administered by cities and towns.

The League continues to analyze these provisions to determine their scope and impact. Once we have more legal guidance, we will pass it along.

#### Impact Fees General Provisions (HB 2008, Sec. 5)

1. Clarifies that development fees must be used to provide services in the same "benefit area" in which it was collected. "Benefit area" is defined by the municipality in the Infrastructure Improvement Plan (IIP). (For most cities, this will be the entire city.)
2. Required (or agreed to) credits towards development fees must be based on the cost of the dedicated infrastructure as identified in the IIP.
3. The city must *forecast* and include in development fee calculations the future contributions derived from the property owner toward the capital cost of the necessary public service (NPS) for which the fee is being collected when determining the burden placed on the city/town by new development. Such contributions include those made in cash, taxes, fees, assessments or other sources of revenue.
4. Specifies that the IIP must:
  - a. Estimate the NPS required by "benefit area", as defined in the IIP.

- b. Provide a comparison of the NPS being provided to existing development and those provided to new development.
  - c. Forecast the revenue sources that will be available to fund the NPS.
5. Establishes "grandfathering" of approved projects from new or increased fees. A city/town development fee ordinance must provide that any increased portion of an existing fee or any new fee cannot be imposed upon a project for two years after final approval by the city if no material changes are made. Specifies the two years cannot be extended by renewal/amendment of the approved plan/plat. Increases done by annual index are applicable during the two year period.
  6. Requires the city/town to provide a written schedule of the fees applicable to the development upon request.
  7. Defines "final approval" as approval of a site plan for commercial and multifamily developments, and a final subdivision plat approval for residential developments. If a multifamily development does not submit a site plan, then a final subdivision plat defines its "final approval" for purposes of this section.
  8. These changes become effective as of December 31, 2009. The "grandfathering" provisions do not apply to any "final approval" issued before January 1, 2010.

Impact Fee Freeze (HB 2008, Sec. 41)

Retroactive to June 29, 2009, cities and towns shall not impose any *new* development fees or increase any existing fees under 9-463.05 until after June 30, 2011.

Construction Sales Tax Rate Freeze (HB 2008, Sec 42)

Retroactive to June 29, 2009, cities and towns shall not impose an increased construction contracting sales tax rate (by vote of the people or act of the city/town council) until after June 30, 2011. Any construction contracting sales tax rate enacted prior to June 1, 2009, is exempted from this prohibition.

Building Codes Restrictions (HB 2008, Sec. 6)

Retroactive to July 1, 2009, any new or modified building code cannot apply to a residential or commercial building that received its subdivision plat/site plan/PAD prior to June 1, 2009, until after June 30, 2011. Exempts any code changes necessary to receive federal stimulus funding.

**OTHER BUDGET BILLS OF NOTE**

House Bill 2013

In House Bill 2013, there are two provisions that could have some effect on cities and towns. In Section 20, there is a requirement for local governments to pay the full cost of competency restoration. Typically municipalities, since they only prosecute misdemeanors, do not have a lot of these cases in a year.

In Section 32 of the bill, there is a call for a local government to pay for 25 percent of the costs for a civil commitment for someone deemed to be a "sexually violent person." Again, these will probably be only felony cases, therefore a county responsibility. We do not anticipate much, if any, of a fiscal impact to cities and towns with either of these provisions.

House Bill 2014

Section 19 of HB 2014 allows cities and towns to enter into financial assistance loan repayment agreements with the water infrastructure financing authority (WIFA) without submitting the question to the voters if the funding to WIFA is provided by the American Recovery and Reinvestment Act of 2009 (ARRA). This authority is effective through the end of fiscal year 2010-11.

**4<sup>TH</sup> SPECIAL SESSION?**

The Governor also announced that she would be negotiating with legislative leaders regarding the scope and timing of the 4<sup>th</sup> Special Session. She indicated the session would be limited to a few agency budgets that were affected by her veto of SB 1025 and that she would not push for her sales tax rate hike referral until the next regular session convenes in January. Once we know more, we will let you know.

**SEPTEMBER 11<sup>TH</sup>**



*Healing Field Memorial, Tempe*