



After 109 days, the second regular session of the 49th Legislature came to a close on Thursday, April 29, 2010 at 11:07 P.M.

- **1,233 bills were filed**
- **352 bills were passed by the Legislature**

NOTE: The following information is a summary of key business community measures. For a complete list of GPCC tracked bills, including their summaries and action taken, please go to www.phoenixchamber.com.

Budget & Tax

- **SB 1359, HB 2586, HB 2767, “Fairness in Fees” measures**

GPCC Position: Support

Action: All measures were amended to the principles of accountability, transparency, fairness, certainty, and flexibility as it relates to agency fees; Governor has signed all three measures

Overview:

The Governor and legislature have either completely eliminated or greatly reduced general fund appropriations to various agency programs. Now, elected officials are requiring more and more state agencies to be self funding through fees collected from the regulated community. To put it more direct, the agencies are being asked to go to a fee-for-service system for many of their programs/permits. Therefore, many agencies are seeking authority to implement or raise fees from the business community. Because Arizona’s businesses require the acquisition of necessary permits and approvals under regulations provided by state statute, the business community worked with the agencies to ensure the fees paid by the regulated community are used for the purpose for which they are collected.

The Greater Phoenix Chamber of Commerce coalesced members to amend SB 1359 (Department of Environmental Quality funds) and HB 2767 (Department of Water Resources fund) to include “held in trust” language to ensure fees and funds collected by these agencies could not be used for anything other than the mission for which they were established. Fee and fund sweeps are nothing more than hidden tax increases on the business community.

Also, during the 7th special session (2010), lawmakers granted authority to several state agency directors to increase fees for services in FY 2011. In granting this authority, the Legislature specified the total amount of money each agency could raise via fee increases and provided those same agencies an exemption from the traditional rulemaking for establishing the new fees. The exemption remains in place until July 1, 2011. Because transparency is critical, HB 2586 requires named state agencies to provide public notice and opportunity for public comment on proposed rules at least 30 days before rules are adopted and creates a State Agency Fee Commission. This process should ensure that fees assessed by these state agencies are fairly and equally assessed to all parties for services rendered.

- **HB 2250, Jobs Bill**

GPCC Position: Support with stated concerns/conditions
Action: Passed House Third Read, 24-25; Passed Senate Finance Committee

Overview:
With the economic downturn, lawmakers sought out to help Arizona's existing businesses, as well as work to attract new businesses to the state. Lawmakers crafted a measure that included tax incentives, a re-tooling of Arizona's Enterprise Zones, and new job training programs.

HB 2250's provisions continually changed from its introduced version. As amended in the Senate Finance Committee, the measure created a new, alternative job training program consisting of "impact programs" to be managed by the Department of Commerce. This new program would have existed in addition to the current job training program in which all employers may apply for training grants. The measure also established a "Quality Jobs Program" whereby companies may have qualified for a waiver of 50% of the state withholding tax on employee compensation.

There were several economic development provisions included in HB 2250. First, it established the "Arizona Opportunity Fund," a deal closing fund that would have allowed the governor to negotiate on behalf of the state in awarding grants from the fund to attract business or to promote economic, infrastructure or community development. Second, it would have expanded eligibility criteria for enterprise zones tax incentives to more businesses.

HB 2250 included tax relief provisions such as: phasing out the state equalization assistance property tax over 4 years; reducing the assessment ratio for class 1 property (commercial & industrial) from 20% to 16% in 1% increments; reducing the corporate income tax rate from 6.968% to 5% over four years; increasing the corporate sales factor from 80% to 100% over two years; creating a "super" accelerated depreciation; and capital gains provisions for small businesses.

In the Senate, the concerns varied from lawmaker to lawmaker. One major concern that was continually highlighted was the fiscal impact from the tax cuts. Senate President Bob Burns suggested that the measure include economic or budget triggers to ensure that the state could afford the tax cut provisions.

In negotiations, Governor Brewer proposed removing many of the tax cut provisions, not creating additional job training programs, and changing a few of the enterprise zone provisions. At that point, Speaker Adams was willing to change the timing of tax cuts, but not a whole-sale removal of the tax cut provisions. On Tuesday, April 27, Speaker Adams pulled the plug on negotiations and called for a Thursday, April 29th sine die when it seemed the negotiations were at a stalemate.

- **HB 2257, Municipal Tax and Fee Notice**

GPCC Position: Support
Action: Passed Senate Third Read, 28-0; Passed House Final Read, 42-15;
Governor signed

Overview:
HB 2257 provides taxpayers greater transparency and ample notice on new or increased taxes and fees. Municipalities and counties proposing to levy any taxes or fees on businesses must provide written notice of the proposed charge or increased rate on the home page of the municipality's or county's website, and must issue a press release of the proposed charge or increased rate at least 60 days before the vote of the governing body. The measure exempts municipal and county development fees and county property tax rate increases.

- **HB 2512, Municipal Tax Auditors**

GPCC Position: Support
Action: Failed House Third Read, 30-28; Failed House Third Read on Reconsideration, 26-31

Overview:

The measure prohibits municipalities from employing auditors on a contingent fee basis for auditing transaction privilege tax levies, and from entering into contracts with a third party for collection of a transaction privilege tax. While on the surface, privatization of these services may seem appropriate, the fact is that the municipalities currently receive these services for free. Contracting with a third party would be at a cost to taxpayers. Additionally, these types of third party arrangements often do not allow for waiving penalties when there is reasonable basis.

- **HB 2700, Solar Energy Tax Incentives**

GPCC Position: Support
Action: Passed House Third Read, 44-13; Passed Senate Third Read, 16-14; Governor signed

Overview:

In an effort to continue its promotion of alternative energy, this measure extends the income tax credit for commercial and industrial applications of solar energy devices through tax year 2016.

- **SB 1254, Job Training Tax Suspension**

GPCC Position: Support
Action: Passed Senate Third Read, 28-1; Used as a striker in the House for another issue

Overview:

For two years, this measure would suspend the job training tax of 0.1%, which is paid by the employer on the first \$7,000 of taxable wages per employee. The intent of the legislation is to stop the job training fund from acquiring money from a dedicated tax that is paid by the business community to only be swept by lawmakers to balance the budget.

Economic Development

- **Arizona Department of Commerce overhaul**

GPCC Position: Participated in January 2010 focus group
Action: None

Overview:

After months of focus groups and culling best practices information from other states, Governor Jan Brewer and Commerce Director Don Cardon announced that the Arizona Department of Commerce would be transformed from a state government agency into a public-private partnership. The board would be comprised of a 15 private sector members with the state's Chief Executive at the helm.

Legislative approval is needed to eliminate the Arizona Department of Commerce as we know it today and shift the funding to the new entity, the Arizona Commerce Authority. While the intent was to include the retooling of Commerce into HB 2250, referred to as the "Jobs Bill", no legislation was passed during the second regular session to implement the changes.

Now, the Governor is looking at ways to at least partially implement the planned overhaul of the Department of Commerce without legislative approval. A likely action will be an executive order to establish the 15-member board of the Authority.

Education

- **HB 2298, Preparation providers; teacher certification**

GPCC Position: Support

Action: Passed Senate Third Read as amended, 17-9; Passed House Final Read, 34-21; Governor signed

Overview:

HB 2298 requires the State Board of Education to allow providers of teacher and administrator preparation programs to offer a variety of preparation models and courses of study. More specifically, the measure specifies that Alternative Preparation Program graduates must: hold a Bachelor's Degree from an accredited postsecondary education institution; demonstrate professional and subject knowledge proficiency; obtain a fingerprint clearance card; complete State Board of Education-prescribed training in Structured English Immersion; and complete research-based systematic phonics instruction; demonstrate required United States and Arizona Constitution proficiencies.

- **HB 2401, Teacher loan program; geographic shortages**

GPCC Position: Support

Action: Passed House Third Read, 50-4; Passed Senate Third Read, 23-4; Governor signed

Overview:

HB 2401 provides for a loan program for teachers specializing in the areas of math, science or special education. First, the measure requires the Arizona Board Of Regents (ABOR) to grant loans to qualified applicants who are classified as in-state students for tuition purposes and who agree to provide instruction in the area of mathematics, science, or special education in a public school in Arizona or in elementary education in a public school that is located in a geographic area that is experiencing a teacher shortage, as determined by the State Board of Education (SBE). Second, loan recipients are permitted to complete their service requirement in the geographic area where they began teaching even if the area is no longer experiencing a shortage of teachers as determined by the SBE.

- **HB 2731, High School Education**

GPCC Position: Support

Action: Passed House Third Read, 50-4; Passed Senate Third Read, 23-4; Governor signed

Overview:

Because it is the goal of Arizona to prepare its students for the global economy, HB 2731 creates a new type of diploma called the **Grand Canyon Diploma (GCD)**. It provides high school students with an alternative pathway to education. A student is eligible for the GCD if they demonstrate their *readiness for college level mathematics and English* according to standards prescribed by an interstate compact on board examination systems, and if they have passing grades on a set of required core courses as determined by the State Board of Education (SBE), including the arts, history and science, and successfully completing a course in economics. Students meeting the criteria and passing a board examination can be awarded the GCD at the end of grade 10 or during or at the end of grade 11 or 12. Both school districts and charter schools can begin to offer a GCD during the 2012-2013 school year.

- **HB 2732, Schools; third grade retention**

GPCC Position: Support
Action: Passed Senate Third Read as amended, 21-9; Passed House Final Read, 59-0; Governor signed

Overview:

Because readiness of students is important to their success, HB 2732 establishes competency requirements for the promotion of pupils from third grade and creates a task force for reading assessments. Additionally, the measure sets up a notification and appeal process for when a student is being retained at their grade level. This measure contains a conditional enactment clause that states that the act only becomes effective if Proposition 100 is approved by voters during the May 18, 2010 special election. Should the act pass and to allow for implementation, it exempts pupils who are enrolled in grade three before the 2013-2014 school year.

- **SB 1119, task force; K-3 accountability; assessments**

GPCC Position: Support
Action: Passed House Third Read, 46-9; Passed Senate Final Read, 28-0; Governor signed

Overview:

SB 1119 establishes the Task Force on K-3 Accountability and Assessments. The measure requires the task force to: examine and evaluate the best practices in accountability and assessment measures, and establishes metrics for academic gains for K-3 schools; conduct trial examinations of K-3 pupils; solicit and accept funding from any lawful public and private source to carry out the Task Force's activities and hold these monies in a separate account; and submit an annual findings report to the Governor, the Speaker of the Arizona House of Representatives, the President of the Arizona Senate, and the Secretary of State on or before December 1. The Task Force is repealed on June 30, 2016.

Employee Relations

- **HB 2260, Regulatory Rule Making**

GPCC Position: Support
Action: Passed Senate Third Read, 18-12; Passed House Final Read, 37-22; Governor signed

Overview:

Regulations and navigating the regulatory process in this state cost businesses their time and money. Creating efficiencies in the system and streamlined regulatory processes are great economic development tools that not only help our existing business community but also businesses looking to locate to Arizona. With our current state economic situation, our business community and state government need to find ways in which they can lower their "costs of doing business" in this state.

HB 2260, as amended in the Senate, is a comprehensive regulatory reform measure. First, it creates a one-stop-shop for new and existing businesses, as well as those looking to locate in Arizona. There, businesses can find the regulations, laws and taxes that pertain to their business. Second, in a time when health care costs are skyrocketing, this measure would create sunrise process for discussing an administrative and benefit mandates on health insurance. Third, the bill creates a government commission that addresses public competition with the private sector, as well as the efficiencies that could be created in government. Fourth, it allows for a more expedient manner in which to repeal ineffective or obsolete rules. Fifth, the measure extends the moratorium on rule making to FY 2010-11. HB 2260 contains other provisions related to the Governor's Regulatory Review Council (GRCC), general permits and rule making.

- **HB 2295, Unemployment insurance; eligibility; full-time students**

GPCC Position: Oppose

Action: Passed House Banking & Insurance Committee

Overview:

If passed, HB 2295 would have granted full time students the ability to collect unemployment insurance without first showing they lost their job through no fault of their own and were ready and able to work another full time position. Currently, the Department of Economic Security (DES) presumes the full time student is ineligible for unemployment insurance and requires the student to prove otherwise by meeting certain criteria. Additionally, DES has appropriate and effective appeal mechanisms in place to ensure that full-time students who are eligible get their unemployment insurance benefits without any unnecessary burdens.

The danger of removing this presumption in law would be to introduce potentially tens-of-thousands of new claimants for unemployment benefits from individuals ineligible to receive them. Currently, DES diligently addresses “over-payment” issues to ensure that benefits are not paid to those who are ineligible. However, flooding DES with these claims now could very well result in benefits erroneously being paid to those who are ineligible, thereby undermining the solvency of the trust fund further – a fund that is in deficit and, in March 2010, began borrowing funds from the federal government to pay benefits.

- **SB 1041, Unemployment Insurance Special Assessment (strike-everything amendment)**

GPCC Position: Support

Action: Strike-everything amendment offered and passed in House Commerce

Overview:

Due to higher-than-anticipated job losses in the state, the Arizona Unemployment Insurance Trust Fund was on the brink of insolvency. In early March 2010, Arizona borrowed funds from the U.S. Department of Labor (DOL) to continue its ability to pay out unemployment benefits to claimants. To that end, the business community needed legislative action to approve a plan to stabilize the UI Trust Fund, pay back the loan plus any interest that may accrue over the life of the loan, and avoid any pitfalls such as the loss of FUTA offset credits. Universally, the stakeholders agree that failure to act could lead to long-term harm. Therefore, the stakeholders worked together to ensure timely loan repayment and avoid penalties. A measure to levy a temporary assessment of 0.6%, beginning calendar year 2011 and continuing through December 31, 2012 was considered.

- **SB 1070, Safe neighborhoods; immigration; law enforcement**

GPCC Position: Neutral

Action: Passed House Third Read, 35-21; Passed Senate Final Read, 17-11;
Governor signed

Overview:

SB 1070 contained both employer and law enforcement provisions. With the parameters set by the 2010 Public Affairs Agenda, GPCC focused efforts on the employer provisions of the bill.

GPCC went from opposing SB 1070 to a position of neutrality when the following provisions were agreed upon: 1. Maintain that law enforcement must present evidence to the court to obtain a subpoena; 2. Provide employers an affirmative defense if they were coerced by law enforcement to break the law; 3. Align record retention with the federal requirements as it relates to E-verify.

Other provisions of the law pertained to law enforcement and have been controversial. SB 1070 makes changes to laws relating to the enforcement on immigration laws, failure to carry an alien registration document, day laborers, as well as harboring or transporting illegal aliens.

- **SB 1189, Admissibility of expert opinion testimony**

GPCC Position: Support
Action: Passed House Third Read, 40-15; Passed Senate Final Read, 22-8;
Governor signed

Overview:

Currently, Arizona state courts rely on one of the most relaxed standards in the Nation for the introduction of expert testimony- the *Frye* standard. This standard is based on the 1923 *Frye* case, and requires courts to determine whether scientific testimony is “generally accepted” in the scientific community, the novelty of the scientific principle and the existence of literature on the topic. Unfortunately, Arizona courts have interpreted the *Frye* standard to permit any witness testimony if the witness claims to be relying on their own observations and experiences. This standard is more lenient than what the federal courts use.

SB 1189 provides for the use of the *Daubert* standard, putting sound science in the court room. This standard requires the judge to evaluate the scientific reliability of expert testimony by looking at additional factors: 1. Can the expert’s theory/technique be (has been) tested? 2. Has the theory/technique been subject to peer review and publication? 3. Is there a known or potential rate of error? 4. Is the theory/technique generally known in the relevant scientific community?

- **SB 1214/HB 2465, limited liability; physicians; examinations**

GPCC Position: Support
Action: (SB 1214) Passed Senate Health Committee; (HB 2465) Passed House
Banking & Insurance Committee

Overview:

While the legislature has worked towards enacting tort reform measures and placing limitations on lawsuits, the courts have issued decisions expanding medical malpractice liability and encouraging more lawsuits. HB 2465/SB 1214 would have restored traditional limits of liability on independent medical examiners. This would have brought Arizona in line with the majority of states that have considered this issue and have adopted the common law rule that a duty of care should not be imposed on an evaluating doctor where treatment is not involved and where there is no physician-patient or other particular relationship. Keep in mind that this law would not have protected physicians who injured a patient during the examination.

Expansion of medical malpractice liability discourages physicians from participating in the legal/medical adjudication process of personal injury and workers’ compensation claims and involvement in necessary medical examinations to ensure that employees are medically capable of performing prospective employment.

Environment/Water & Agriculture

- **HB 2442, Environmental Regulation**

GPCC Position: Support
Action: Passed House Third Read, 35-23; Passed Senate Third Read, 18-10;
Governor signed

Overview:

Because there is great concern related to environmental policies being implemented without legislative approval, this legislation ensures that agencies are prohibited from adopting or enforcing regulations to limit the emission of greenhouse gas without express legislative authorization. Additionally, the legislation requires the Department of Environmental Quality (ADEQ) to obtain legislative authorization before can enforce a cap and trade system.

- **HB 2744, Bottle Water Surcharge**

GPCC Position: Oppose
Action: Failed House Water & Energy Committee
Overview:

Because more and more agencies are receiving fewer general fund appropriations, lawmakers are seeking alternative ways to find funding for agency programs. HB 2744 would have placed a surcharge on bottled water to help fund the Arizona Department of Water Resources (ADWR), the Water Quality Division of the Arizona Department of Environmental Quality (ADEQ) and counties and municipalities.

Health Care

- **SB 1043, Health Care Funding and Kids Care (strike-everything amendment)**

GPCC Position: Support
Action: Passed House Third Read as amended, 55-4; Passed Senate Final Read, 18-10; Governor signed
Overview:

In response to proposed cuts to the Arizona Health Care Cost Containment System (AHCCCS), the Chamber aligned itself with a number of organizations, including hospitals, insurers and other business groups, to advocate against a shift in costs from government to the private sector. After the FY2010-11 budget package passed in the 7th Special Session, the Kinds Care program (the State’s version of the federal children’s health insurance program) funding was eliminated. The Chamber worked with policy makers to advocate for fiscal accountability and against this cost shift to the private sector.

This bill as amended, restores funding to the Kids Care program associated with Prop. 204. This legislation authorizes an additional \$385 million on Prop 204 programs and \$49.9 million on Kids Care and is contingent on Congress extending the enhanced federal match rate for medical assistance through June 30, 2011.

- **HB 2132, SB 1216, SB 1417, several health care mandate bills**

GPCC Position: Oppose mandates
Action: All measures failed
Overview:

This legislative session, there were several mandate bills introduced. Because mandates can increase the cost of health insurance, the Chamber members opposed a number of measures seeking to impose new coverage requirements for healthcare plans that are currently optional to policy holders. These mandates impose health benefits that would have put coverage out of reach for many individuals and businesses struggling to meet rising healthcare costs.

Small Business Leadership Council (SBLC)

- **SB 1372, Sales Tax – broadening the base**

GPCC Position: Oppose
Action: Failed in Senate Finance Committee
Overview: This measure would have expanded the sales tax base to include businesses offering personal care services, education (such as trade schools and dance studios), automotive services, household maintenance and cleaning services. The measure would have removed the exemption from sales tax for sales of warranty or service contracts. Additionally, SB 1372 would have eliminated the sales tax credit for the cost of accounting and reporting sales tax.

- **HB 2357, AHCCCS members/employer reporting**

GPCC Position: Oppose
Action: None
Overview: This measure would have required AHCCCS members to identify their employers and their spouse's employers. AHCCCS would have been required to submit an annual report to the Legislature and governor listing each employer identified the total number of persons employed by each and the total number of employees who are enrolled in AHCCCS. Had HB 2357 passed, the next step would have been future legislation to require employers who have employees (and/or their families) using AHCCCS to reimburse the state.

- **HB 2672, Health Savings Accounts**

GPCC Position: Support (Also supported in Health Care issue committee)
Action: Passed House Ways and Means
Overview: This measure would have provided incentives for employers and individuals to have health savings accounts.

Transportation

The Greater Phoenix Chamber of Commerce continued its long-standing commitment to support the transportation needs of the Valley, including advocating for the creation of a state-wide transportation plan as well as additional funding methods for new and existing construction. However, due to the current budget situation in Arizona, there were significant cuts made to many public transit programs this legislative session.

The current recession has hit local transit agencies hard as much of transit funding is primarily financed through fares, sales taxes from cities and the voter enacted Proposition 400. The repeal of all Local Transportation Assistance Fund LTAF I and II funds will have a substantial impact on the ability of local governments to continue services. As a result, transit systems across the state are experiencing dramatic reductions in services and significant fare increases for customers. The Chamber continues to believe that an adequately funded Transit system is an important component to the State's economic recovery and to the businesses that depend on the customers that transit ridership brings.