

2014 Legislative Policy Statement
9th Annual CSA Legislative Summit
Gila County, Arizona
October 14-16, 2013

A. What is the legislative proposal?

Changes to A.R.S. 48-910 to amend the language for domestic water/wastewater districts to conform with the same language contained in sanitary district statutes regarding the ability to charge a capacity fee on property owners within the district and to allow a lien for non-payment of such services to be placed against the property. (please see additional page)

B. Describe the problem and explain how the proposal solves it.

Please see attached explanation sheet.

C. What is the fiscal impact to the state or county budgets of the proposal?

There is no negative anticipated impact to county or state general fund.

D. What is the preliminary analysis of the political environment and stakeholders' and affiliates' comments?

The concept of this bill is hard to understand. Last year the language was interpreted to mean that a new "tax" would be charged to property owners. Yavapai will be working closely with those Legislators who did not like the language to better educate them on the need for the districts to charge the fees necessary to provide a service to those specific owner and to keep the service available.

E. Who is the primary county contact information for the proposal (name, phone, email and other relevant information)?

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For more information contact the County Supervisors Association at (602) 252-5521

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Changes to A.R.S. 48-910 cont.

A. What is the legislative proposal cont.

To amend A.R.S. 48- 2027 to allow sanitary districts to place a lien for non-payment of availability fees against the property.

B. Describe the problem and explain how the proposal solves it.

Domestic water/wastewater and sanitary districts are all formed under Arizona Revised Statute for the purpose of providing a specific service to the constituents within the boundaries of the district. Many times the only way for a constituent to have access to this specific service is to opt into this type of district. When the districts are formed, they are formed with the understanding that all properties within the district will use the service at some point and time, even if they do not need the service until such time as the property owner hooks up to the service.

The district must plan ahead for the availability of the service and build the infrastructure necessary to service all users within the district. The costs to upkeep the infrastructure along with other costs to maintain the district, such as statutory election costs, are a burden on the whole district, and the constituents within the district benefit from being within the district even if they do not pay any fees until they hook up to the system, such as being able to vote in any given election for the district and the assurance that they system will be in working order when a hookup is necessary.

Sanitary districts anticipated for the necessity to charge an availability fee until such time as the constituent hooked up to the service.

Allowing Domestic water/wastewater districts to follow the same procedure as sanitary districts will assure that the DWWIDs can provide the needed services that the district was formed to provide.

Amending language to both statutes to allow for a lien to be placed against property for non-payment of fees due will help the districts collect the funds needed to provide the services that the district was formed to provide.

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REFERENCE TITLE: water improvement, sanitary districts; liens

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

H. B. _____

Introduced by _____

AN ACT

AMENDING SECTIONS 48-910 AND 48-2027, ARIZONA REVISED STATUTES; RELATING TO
SPECIAL TAXING DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 48-910, Arizona Revised Statutes, is amended to
3 read:
4 48-910. Domestic water and domestic wastewater services;
5 authority to set fees; liens; foreclosure
6 A. The board of directors of a domestic water improvement district, a
7 domestic wastewater improvement district or a county improvement district
8 that provides or is established for the purpose of providing water or
9 wastewater services ~~shall have the authority to~~ MAY set fees for the district
10 following a public hearing. Fees may include any of the following:
11 1. User fees that are proportionate shares of the cost of operation,
12 maintenance and replacement of a water delivery system, a water disposal
13 system or a wastewater treatment and disposal system or any combination of
14 those systems, including a system for the treatment and use of effluent, and
15 may include the cost of administrators, surveyors, sanitation experts,
16 engineers, legal counsel and other persons as are reasonably necessary for
17 the operation, maintenance and replacement of the systems. The fees may also
18 include any contractual amounts required to meet covenants relating to bonds
19 or other obligations of the district secured by a pledge of, or promise to
20 pay from, the district's fees.
21 2. Hookup fees for connection to the district water or wastewater
22 system, not including the cost of the actual physical connection.
23 3. Lateral fees for the cost of constructing a water or wastewater
24 lateral from the property line of the user to the middle of the easement or
25 right-of-way in which the water system or wastewater system is located.
26 ~~4. For a domestic wastewater improvement district or a county~~
27 ~~improvement district that provides or is established for the purpose of~~
28 ~~providing wastewater systems or services, either of the following:~~
29 (a) 4. A capacity fee based on the cost of developing the wastewater
30 collection, treatment and disposal facilities that are required to treat the
31 flows into the system from a particular wastewater connection.
32 (b) 5. An availability fee that is charged on all property in the
33 district that is not connected to the existing WATER OR wastewater ~~treatment~~
34 system but that is adjacent to a WATER OR wastewater line and that is based
35 on the cost of having the ~~wastewater~~ line and treatment facility ~~capacity~~ to
36 accommodate that property if it is developed. An availability fee is limited
37 to fifty per cent of the user fee.
38 B. Notice announcing the hearing shall be posted in ~~not less than~~ AT
39 LEAST three places within the district ~~for not less than~~ AT LEAST ten days
40 before the date of the hearing and shall be published twice in a newspaper of
41 general circulation within the district. The newspaper publications shall be
42 ~~not less than~~ AT LEAST one week apart, and the first publication shall be ~~not~~
43 ~~less than~~ AT LEAST ten days before the date of the hearing. The district may
44 also mail notice of the hearing to all district customers. The notice may be

1 included in the district's regular billings and shall be mailed at least ten
2 days before the date of the hearing.

3 C. The board of supervisors shall be notified by mail of the hearing
4 ~~not less than~~ AT LEAST ten days before the date of the hearing. The board of
5 supervisors may be represented at the hearing and may advise the board of
6 directors.

7 D. At the hearing all interested district property owners and
8 customers may appear and be heard on any matter relating to the establishment
9 of the proposed fees. Any person wishing to object to the establishment of
10 the proposed fees, before the date set for the hearing, may file objections
11 with the chairman or the clerk of the board of directors.

12 E. A domestic water improvement district, A domestic wastewater
13 improvement district or a county improvement district that provides or is
14 established for the purpose of providing water or wastewater systems or
15 services may file a lien on property for the nonpayment of user fees OR
16 AVAILABILITY FEES, OR BOTH, for services provided to the property if the fees
17 are delinquent for more than ninety days. At least thirty days before filing
18 the lien, the district shall provide written notice OF THE LIEN to the owner
19 of the property and shall include notice of an opportunity for a hearing
20 before a designated officer of the district. The notice of lien shall be
21 personally served on the property owner or mailed by certified mail to the
22 property owner's last known address or to the address to which the most
23 recent property tax assessment was mailed. If the property owner does not
24 reside on the property, the notice shall be mailed by certified mail to the
25 owner's last known address.

26 F. The unpaid user fees AND AVAILABILITY FEES are a lien on the
27 property from the date of recording in the office of the county recorder in
28 the county in which the property is located until the fees and all costs are
29 paid. The lien is subject and inferior to the lien for general taxes and to
30 all prior recorded mortgages and encumbrances of record. A sale of the
31 property to satisfy a lien assessed pursuant to this section shall be made on
32 a judgment of foreclosure and order of sale. A domestic water or domestic
33 wastewater improvement district or a county improvement district that
34 provides or is established for the purpose of providing water or wastewater
35 systems or services may bring an action to foreclose the lien in the superior
36 court in the county in which the property is located any time after
37 recording. Failure to foreclose the lien does not affect its validity. The
38 recorded unpaid user fees AND AVAILABILITY FEES are prima facie evidence of
39 the truth of all matters recited in the recording and of the regularity of
40 all proceedings before the recording.

41 G. Unpaid user fees pursuant to this section accrue interest at the
42 rate prescribed by section 44-1201.

43 H. The district shall add all costs incurred by the district,
44 including interest, attorney fees and costs in filing and enforcing the lien,

1 to the unpaid user fees AND AVAILABILITY FEES, and the costs are a liability
2 of the property owner payable from the proceeds of the sale.

3 I. A prior assessment of unpaid user fees pursuant to this section
4 does not bar a subsequent assessment pursuant to this section, and any number
5 of liens on the same parcel of property may be enforced in the same action.

6 ~~J. A district shall not file a lien for unpaid user fees against a
7 residential property that is occupied by a lessee and at which the lessee is
8 responsible for payment of the user fees. The district shall determine the
9 status of leased residential property before filing the lien.~~

10 Sec. 2. Section 48-2027, Arizona Revised Statutes, is amended to read:
11 48-2027. Fees, rentals and service charges; reserve fund;

12 investments; lien

13 A. The board of directors of a sanitary district may charge and
14 collect fees, including the fees listed in subsection G of this section, and
15 sewer rentals and service charges for any service performed or property
16 furnished by the district.

17 B. The board of directors may charge and collect fees and service
18 charges for any plan reviews, site evaluations, construction inspections,
19 monitoring inspections, follow-up inspections and any other service performed
20 by the department of environmental quality if the sanitary district and the
21 department of environmental quality have entered into an intergovernmental
22 agreement pursuant to title 11, chapter 7, article 3 in which the department
23 of environmental quality has agreed to provide any of such services in the
24 sanitary district, except that:

25 1. Such fees and service charges shall not exceed the actual cost of
26 performing such services.

27 2. State agencies are exempt from paying such fees and service
28 charges.

29 3. Fees shall not be charged or collected by both the department of
30 environmental quality and a sanitary district for the same service.

31 C. Revenue collected under subsections A and B of this section shall
32 be paid into the county treasury to be credited first to the bond fund of the
33 district to be used in the payment of principal and interest on the bonds if
34 the proceedings relative to the issuance of the bonds provide for a pledge of
35 such revenues or if the district has budgeted all or a portion of such
36 revenues to the payment of the bonds in the certificate submitted to the
37 board of supervisors pursuant to section 48-2025, subsection C and, second,
38 to the operating fund of the district.

39 D. The proceedings relative to the issuance of any bonds may provide
40 for a pledge of all or any part of the revenues of the district derived from
41 any source other than taxes levied pursuant to section 48-2025 as additional
42 security and source of payment of all or any specific issue of the district's
43 bonds. The pledge shall be supplemental to and not ~~in-lieu~~ INSTEAD of the
44 liability of all taxable real property for the payment of the bonds. The
45 pledge may be secured by an assignment of all or a part of such revenues to a

1 bank doing business in this state. The treasurer may be instructed by the
2 board of directors of the district to make monthly, semiannual or annual
3 payments to such bank to provide for payment of the bonds and coupons as the
4 same shall mature. When revenues are assigned to a bank for payment, such
5 bank may be named as a paying agent on the bonds and coupons so secured ~~in~~
6 ~~lieu~~ INSTEAD of the county treasurer, and in that event, the county treasurer
7 shall remit any taxes collected pursuant to section 48-2025 to such paying
8 agent in time for prompt payment of maturing bonds and coupons.

9 E. The proceedings for the issuance of bonds may provide for a reserve
10 fund in a sum found by the board of directors of the district to be
11 sufficient to secure payment of maturing principal and interest in the event
12 of a deficiency. The reserve fund may be funded from either bond proceeds or
13 revenues available for that purpose in any fiscal year after provision has
14 been made for payment of principal and interest and operating costs. The
15 district may covenant to maintain the reserve fund throughout the life of any
16 bonds. Whenever the annual revenues are insufficient to meet maturing
17 principal or interest or sinking fund payments in any fiscal year, the
18 reserve fund shall be exhausted prior to the making of an emergency levy.

19 F. Upon direction of the board of directors of the district, monies
20 held in any fund may be invested by the county treasurer or the bank acting
21 as assignee under any pledge in any securities or obligations qualifying as
22 investments for state monies under section 35-324.

23 G. Fees ~~which~~ THAT the district may charge pursuant to this section
24 include:

25 1. User fees, which are proportional shares of the cost of the
26 operation, maintenance and replacement of the wastewater collection,
27 treatment and effluent disposal system.

28 2. Hookup fees for connection to the district sewer system, not
29 including the cost of the actual physical connection.

30 3. A lateral fee, which is a fee for the cost of constructing a sewer
31 lateral from the property line of the user to the middle of the easement or
32 right-of-way in which the sewer is located.

33 4. A capacity fee based on the cost of developing the sewage
34 collection, treatment and effluent disposal facilities required to treat the
35 flow of sewage ~~which~~ THAT enters the sewage system from a particular sewer
36 connection.

37 5. An availability fee, which is a charge levied against all property
38 in the district ~~which~~ THAT is not connected to the sewer system but ~~which~~
39 THAT lies adjacent to a sewer line for the benefit to that particular parcel
40 of property of having the sewer line and capacity in the treatment works and
41 effluent disposal facilities to accommodate the development of the property.
42 The availability fee shall be no more than fifty per cent of the user fee.

43 6. A late fee if the payment of any fee prescribed by this section is
44 delinquent for more than fifteen days.

1 H. All fees shall be initially determined and annually reviewed by the
2 board of directors following a public hearing at which all interested persons
3 may appear and be heard on any matter relating to the amount of the fees or
4 the method of determining the fees. ~~Not less than~~ AT LEAST twenty ~~or~~ BUT NOT
5 more than thirty days before the public hearing the board of directors shall
6 publish a notice of the time and place of the hearing and a statement of the
7 rates to be considered or reviewed. Any person wishing to object to the
8 establishment or continuation of the rates, before the date set for the
9 hearing, may file the objection with the chairman of the board of directors.

10 I. A sanitary district may file a lien on property for the nonpayment
11 of user fees OR AVAILABILITY FEES, OR BOTH, for services provided to the
12 property if the payment of the fees is delinquent for more than ninety days.

13 J. Before filing the lien, the sanitary district shall provide written
14 notice OF THE LIEN to the owner of the property. The notice shall be given
15 at least thirty days before filing the lien and shall include an opportunity
16 for a hearing with a designated sanitary district official. The notice shall
17 be either personally served or mailed BY CERTIFIED MAIL to the property
18 owner, at the last known address ~~by certified mail~~, or to the address to
19 which the tax bill for the property was last mailed. If the owner does not
20 reside on the property, the notice shall be sent BY CERTIFIED MAIL to the
21 last known address.

22 K. The unpaid user fees AND AVAILABILITY FEES, from the date of
23 recording in the office of the county recorder in the county in which the
24 property is located, are a lien on the property until the fees are paid. The
25 lien is subject and inferior to the lien for general taxes and to all prior
26 recorded mortgages and encumbrances of record. A sale of the property to
27 satisfy a lien obtained under this section shall be made on judgment of
28 foreclosure and order of sale. A sanitary district may bring an action to
29 enforce the lien in the superior court in the county in which the property is
30 located at any time after the recording, but failure to enforce the lien by
31 this action does not affect its validity. The recorded unpaid user fees AND
32 AVAILABILITY FEES are prima facie evidence of the truth of all matters
33 recited in the recording and of the regularity of all proceedings before the
34 recording.

35 L. Unpaid user fees AND AVAILABILITY FEES including any late fees
36 assessed pursuant to this section accrue interest at the rate prescribed by
37 section 44-1201.

38 M. THE DISTRICT SHALL ADD ALL COSTS INCURRED BY THE DISTRICT,
39 INCLUDING INTEREST, ATTORNEY FEES AND COSTS IN FILING AND ENFORCING THE LIEN,
40 TO THE UNPAID USER FEES AND AVAILABILITY FEES, AND THE COSTS ARE A LIABILITY
41 OF THE PROPERTY OWNER PAYABLE FROM THE PROCEEDS OF THE SALE.

42 ~~M.~~ N. A prior assessment of unpaid user fees for the purposes
43 provided in this section does not bar a subsequent assessment for these
44 purposes and any number of liens on the same lot or tract of land may be
45 enforced in the same action.

1 ~~N. The sanitary district shall determine the status of leased~~
2 ~~residential property before filing a lien pursuant to subsection I of this~~
3 ~~section and a lien may not be filed if both of the following apply:~~
4 ~~1. The lessee of the leased residential property has agreed in writing~~
5 ~~to be responsible for those fees.~~
6 ~~2. The owner of the leased residential property has recorded a copy of~~
7 ~~the written agreement of the lessee's responsibility for payment of the user~~
8 ~~fees pursuant to this section. The copy of the written agreement shall be~~
9 ~~recorded in the office of the county recorder in the county in which the~~
10 ~~residential property is located.~~



County Supervisors

A S S O C I A T I O N
OF ARIZONA

2014 Legislative Policy Statement
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A. What is the legislative proposal?

Conform A.R.S. 48-802, reorganization of Fire District statute language (when a board goes from a three to a five member board), to the same guidelines that are set forth in Title 16 (Election procedures), including signature requirements for candidates and nomination time frames.

Also make conforming change with Title 16 to standardize the canvass dates for reorganization elections.

B. Describe the problem and explain how the proposal solves it.

A.R.S. 48-802 states that "persons are not required to submit nomination petitions in the event of a reorganization of a fire district." If the reorganization is to go from a three to five member board, the only option for the new board members to take their seat is to run as a write in, however A.R.S. 48-816 (B) does not specifically state that any papers need to be filed. Changing the language will require candidates to follow the same guidelines for nomination as set forth in Title 16.

48-816 (C) & (F) and 48-820 (B) changes the canvass time frame for reorganization to conform with other election canvass time lines as designated in Title 16.

C. What is the fiscal impact to the state or county budgets of the proposal?

There is no anticipated impact to county or state general fund.

D. What is the preliminary analysis of the political environment and stakeholders' and affiliates' comments?

Even though legislation from last year stalled in the Senate, there were no issues with the proposed language.

The Fire District Association has been contacted and there is not any an anticipated opposition to this language.

E. Who is the primary county contact information for the proposal (name, phone, email and other relevant information)?

Name: Ana Wayman-Trujillo

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For more information contact the County Supervisors Association at (602) 252-5521

48-802. Election procedures

A. All elections held pursuant to this article shall conform to the requirements of this section.

B. Except as otherwise provided in this article, the manner of conducting and voting at an election, contesting an election, keeping poll lists, canvassing votes and certifying returns shall be the same, as nearly as practicable, as in elections for county officers. If the fire district is administered by a board, after consultation with the officer in charge of elections, a fire district may divide itself into precincts. To the extent practicable, the precincts shall be equal or as nearly equal in population and shall conform to the boundaries of precincts adopted by the board of supervisors of the county. The fire district shall thereafter conduct its elections using those precincts.

C. No person may vote at the election other than a qualified elector of this state who has registered to vote at least twenty-nine days before the election as a resident within the district boundaries, proposed district boundaries created by the merger of fire districts or the proposed district boundaries created by a consolidated district. A person offering to vote at a fire district election for which no fire district register has been supplied shall sign an affidavit stating the person's address and the fire district in which the person resides and swearing the person is qualified to vote and has not voted at the fire district election being held. A person offering to vote at a fire district election for which a fire district register has been supplied shall proceed as required for voting at any election at which precinct registers are used.

D. In elections for an elected chief and secretary-treasurer or district board members:

1. The person or persons within the district or precinct, as applicable, receiving the highest number of votes shall be declared elected.

2. Candidates must be, and during incumbency must remain, qualified electors of the fire district. In a fire district that is divided into precincts as prescribed by subsection B of this section, candidates shall be qualified electors of the precinct in which they are candidates and during incumbency must remain qualified electors of that precinct.

3. Elections, other than special elections to fill a vacancy or elections to merge or dissolve fire districts, shall be held on the first Tuesday after the first Monday in November of the first even numbered year following the year the district is declared organized by the board of supervisors and, in the case of a fire district administered by a district board, every two years thereafter on the first Tuesday after the first Monday in November. Elections shall be held every four years thereafter in districts administered by an elected chief.

4. Except for an election to reorganize a fire district, nominating petitions shall be filed with the board of supervisors as prescribed by title 16, chapter 3. If only one person files or no person files a nominating petition for an election to fill a position on the district board or the position of elected fire chief or elected secretary-treasurer for which the term of office is to expire, the board of supervisors may cancel the election for that position and appoint the person who filed the nominating petition to fill the position. If no person files a nominating petition for an election to fill a district office, the board of supervisors may cancel the election for those offices and those offices are deemed vacant and shall be filled as otherwise provided by law. A person who is appointed pursuant to this paragraph is fully vested with the powers and duties of the office as if elected to that office.

5. In an election to reorganize a fire district, nomination requirements, as prescribed by title 16 chapter 3 shall be filed by persons seeking election to the governing body of the district in the event of reorganization.

6. The names of all nominated persons for office within the district or precinct, as applicable, shall appear on the ballot without partisan designation.

E. In an election to reorganize, notice of the appropriate order of the board of supervisors or governing body of the district shall be given as prescribed by title 16 chapter 2.

F. In an election to merge fire districts, notice of the appropriate order of the board of supervisors shall be given as prescribed by title 16. In addition, notice of the election with an accurate map of the territory proposed to be merged shall be sent by first class mail to each owner of property that would be subject to taxation by the merged district at least sixty days before the election. An order to hold an election shall be issued not more than thirty days after the receipt of the resolution to merge fire districts pursuant to section 48-820.

G. In an election to consolidate fire districts, notice of the appropriate order of the board of supervisors shall be given as prescribed by title 16. In addition, notice of the election with an accurate map of the territory proposed to be consolidated shall be sent by first class mail to each owner of property that

would be subject to taxation by the consolidated district at least sixty days before the election. An order to hold an election shall be issued not more than thirty days after the receipt of the resolution to consolidate fire districts pursuant to section 48-822.

48-816. Election to reorganize district

A. The board of supervisors shall make an order calling an election to decide whether to reorganize a fire district administered by an elected chief as a district administered by a district board, pursuant to section 48-803, or to reorganize a fire district administered by a district board as a district administered by an elected chief, pursuant to section 48-804, when a petition containing signatures of twenty-five per cent of the qualified electors residing within the district and praying that the district be reorganized is filed with the board except the board of supervisors shall not make an order calling for a reorganization election more frequently than once every two years. The election may be held on any consolidated election date as prescribed in section 16-204. The board of supervisors shall give notice of the election in the same manner provided for in section 48-806 for bond elections.

B. The words appearing on the ballot shall be "reorganize as a fire district administered by (insert elected chief or district board, as specified)--yes", "reorganize as fire district administered by (insert elected chief or district board, as specified)--no". The ballots shall also allow each elector to indicate the elector's choice for elected chief and secretary-treasurer or board members, as appropriate, in the event of reorganization.

C. Within fourteen days after the election, the board of supervisors shall meet and canvass the returns and if it is determined that a majority of the votes cast at the election was in favor of reorganizing the fire district, the board shall enter that fact on its minutes, declare the district duly reorganized and announce the names of those elected to the district board or as chief and secretary-treasurer.

D. The board of supervisors shall make an order calling an election to decide whether to reorganize a fire district that has a board consisting of three members as a fire district that has a board consisting of five members when a petition containing the signatures of twenty-five per cent of the qualified electors residing within the district and praying that the district be reorganized is filed with the board except the board of supervisors shall not make an order calling for a reorganization election to expand the number of directors on the district board more frequently than once every two years.

E. The words appearing on the ballot shall be "reorganize as a fire district administered by a five member board--yes", "reorganize as a fire district administered by a five member board--no". ~~The ballots shall also allow each elector to indicate the elector's choices for two additional board members in the event of reorganization. The ballot shall contain the names of the candidates nominated pursuant to [48-802 (D)(5)] for election as board members in the event of reorganization.~~

F. ~~Within fourteen~~ Not less than six days or more than twenty days after the election, the board of supervisors shall meet and canvass the returns, and if it is determined that a majority of the votes cast at the election was in favor of reorganizing the fire district as a district with a five member board, the board shall enter that fact on its minutes, declare the district duly reorganized and announce the names of those elected to the district board.

48-820. Election to merge fire districts; notice; hearing; approval; joint meeting; merged district board

A. Except as provided in subsection J of this section, the board of supervisors shall make an order calling for an election to decide whether to merge fire districts when a resolution for merger from each district is submitted to the board. The board of supervisors shall not make an order calling for an election to merge fire districts more frequently than once every two years. Whether or not the districts are merged, the fire districts shall reimburse the counties for the expenses of the election, including the cost of mailing any notices required pursuant to this section. If the proposed district is located in more than one county, the resolutions shall be submitted to the board of supervisors of the county in which the majority of the assessed valuation of the proposed district is located. The words appearing on the ballot shall be "(insert fire districts' names) merge as a fire district--yes" and "(insert fire districts' names) merge as fire district--no."

B. ~~Within fourteen~~ Not less than six days or more than twenty days after the election, the board of supervisors shall meet and canvass the returns, and if it is determined that a majority of the votes cast at the election in each of the affected districts is in favor of merging the fire districts, the board shall enter that fact on its minutes.

C. Except as prescribed in subsection D of this section, two or more fire districts may merge if the governing body of each affected fire district, by a majority vote of the members of each governing body, adopts a resolution declaring that a merger be considered and a public hearing be held to determine if a merger would be in the best interests of the district and would promote public health, comfort, convenience, necessity or welfare. After each district adopts such a resolution, the governing body by first class mail shall send written notice of the resolution, its purpose and notice of the day, hour and place of a hearing on the proposed merger to each owner of taxable property within the boundaries of the district. The notice shall contain the name and description of the boundaries of each district proposed to be merged and a detailed, accurate map of the area to be included in the merger. The notice also shall contain an estimate of the assessed value of the merged district, the estimated change in property tax liability for a typical resident of the proposed merged district and a list of the benefits and injuries that may result from the proposed merged district. No new territory may be included as a result of the merger.

D. A noncontiguous county island fire district formed pursuant to section 48-851 shall not merge with a fire district formed pursuant to section 48-261.

E. The clerk of the governing body shall post notice in at least three conspicuous public places in the district and shall also publish notice twice in a daily newspaper of general circulation in the county in which the district is located, at least ten days before the public hearing. The clerk of each governing body affected by the proposed merger shall also mail notice and a copy of the resolution in support of considering the merger to the chairman of the board of supervisors of the county or counties in which the affected districts are located. The chairman of the board of supervisors shall order a review of the proposed merger and shall submit written comments to the governing body of each fire district located in that county within ten days after receipt of the notice.

F. At the hearing, each governing body of the district shall consider the comments of the board of supervisors, hear those persons who appear for or against the proposed merger and determine whether the proposed merger will promote public health, comfort, convenience, necessity or welfare. If, after the public hearing each of the governing bodies of the districts affected by the proposed merger adopt a resolution by a majority vote that the merger will promote public health, comfort, convenience, necessity or welfare, each of the governing bodies of the districts affected by the proposed merger shall submit to the board of supervisors the resolutions that call for an election.

G. Before considering any resolution of merger pursuant to this section, a governing body shall obtain written consent to the merger from any single taxpayer residing within each of the affected districts who owns thirty per cent or more of the net assessed valuation of the total net assessed valuation of the district. If written consent contemplated by this subsection is not obtained, subsections A and B apply, and the merger may only be accomplished by election.

H. If the merger is approved as provided by subsection B or J of this section, the governing body of the affected district with the largest population within thirty days shall call a joint meeting of the governing bodies of all of the affected districts. At the joint meeting, a majority of the members of the governing body of each affected district constitutes a quorum for the purpose of transacting business. The members of the governing body shall appoint a total of five persons from those currently serving on the governing bodies who shall complete their regular terms of office, except that no more than three of the persons appointed

may serve terms that end in the same year. No more than three members shall be appointed from the same fire district board. Subsequent terms of office for district board members shall be filled by election of board members who shall be qualified electors of the merged district.

I. The appointed governing body shall immediately meet and organize itself and elect from its members a chairman and a clerk. The appointed board by resolution shall declare the districts merged and each affected district joined. The governing board by resolution shall declare the name of the newly merged fire district. The resolution and the names of the new board members for the newly organized district shall be sent to the board of supervisors, and the districts are merged effective thirty days after the adoption of the resolution.

J. If the requirements of subsection G of this section are met and each of the governing body votes required by subsections C and F of this section are unanimous, the following apply:

1. The governing bodies of each district may choose to merge by unanimous resolution without an election and subsections A and B of this section do not apply.

2. The governing bodies of each district may choose to hold an election on the question of merger and subsections A and B of this section apply.



**2014 Legislative Policy Statement
9th Annual CSA Legislative Summit
Gila County, Arizona
October 14-16, 2013**

A. What is the legislative proposal?

Amend A.R.S. 36-545.04 to permit federal, state or private medical benefits to pay for Court Ordered mental health Evaluation (COE) services.

B. Describe the problem and explain how the proposal solves it.

When a person is suspected to be a danger to themselves or to others, a judge may order the person's mental health be evaluated to determine if treatment is required. The evaluation usually consists of visits with 2 psychiatric experts and interim treatment. Adding language to permit federal funding (if available) would help alleviate a portion of the cost counties shoulder of this expense. This proposal would also help rural counties with a shortage of providers and control costs by allowing counties to charge the rate that Medicaid providers accept for these services. It would also help bring the statute into compliance as the current statute was written prior to the Medicaid program and the proposals would reflect how the system now functions.

C. What is the fiscal impact to the state or county budgets of the proposal?

There is no anticipated impact to county or state general fund.

D. What is the preliminary analysis of the political environment and stakeholders' and affiliates' comments?

A preliminary analysis is being conducted to determine the appropriate comments

E. Who is the primary county contact information for the proposal (name, phone, email and other relevant information)?

Name: Jack Fields

Phone: 928-771-3200

E-mail: jack.fields@yavapai.us

For more information contact the County Supervisors Association at (602) 252-5521

36-545.04. Costs of court proceedings; compensation for evaluation and testimony

A. Except as provided in this chapter, AND TO THE EXTENT THAT A PERSON IS ELIGIBLE PURSUANT TO SECTION 36-3408 FOR FEDERAL OR PRIVATE HEALTH OR MEDICAL BENEFITS, costs of court proceedings and costS of services provided by a county pursuant to article 4 OF THIS CHAPTER are a charge against the county in which the patient resided or was found before PRIOR TO hospitalization. The clerk of the superior court in the county where the proceedings are held shall certify to the board of supervisors of the county where the patient resided or was found before PRIOR TO hospitalization that such-~~THE~~ proceedings were held and the amount of the balance of the incurred costs.

B. If a physician, psychologist, psychiatric and mental health nurse practitioner or social worker is not otherwise compensated for evaluating a person or for testifying at a hearing, or both, the physician, psychologist, nurse practitioner or social worker shall be paid by the county, an amount determined reasonable by the court, subject to the same limitations as imposed on compensation for attorneys in hearings, as provided by section 13-4013. These payments shall be made as a part of the costs of court proceedings as in subsection A of this section.



County Supervisors

A S S O C I A T I O N

**2014 Legislative Policy Statement
9th Annual CSA Legislative Summit
Gila County, Arizona
October 14-16, 2013**

A. What is the legislative proposal?

Amend A.R.S. 16-204 to allow a provision where counties in which the permanent early voting list, pursuant to A.R.S. 16-544, exceeds 50% of the total county registered voters, may conduct a mail ballot election.

B. Describe the problem and explain how the proposal solves it.

Please see attached explanation sheet.

C. What is the fiscal impact to the state or county budgets of the proposal?

There is no anticipated negative impact to county or state general fund.

D. What is the preliminary analysis of the political environment and stakeholders' and affiliates' comments?

Legislation in Arizona has been moving towards allowing many jurisdictions within counties to hold vote by mail elections, and allowing voters within the county to obtain early ballots for all elections. These processes have increased voter participation within the county. Total vote by mail elections held by jurisdictions has also helped to reduce the cost of elections. Current language under the new consolidated election provision of A.R.S. 16-204 furthers that purpose, but by not allowing a county wide vote by mail election, when many of the jurisdictions are conducting vote by mail election in the same cycle, causes voter confusion on the method of voting and does not help counties decrease election costs.

E. Who is the primary county contact information for the proposal (name, phone, email and other relevant information)?

Name: Ana Wayman-Trujillo

Phone: 928-442-5162

E-mail: ana.wayman-trujillo@yavapai.us

For more information contact the County Supervisors Association at (602) 252-5521

2014 Legislative Policy Statement
9th Annual CSA Legislative Summit
Gila County, Arizona
October 14-16, 2013

B. Describe the problem and explain how the proposal solves it.

Currently statute allows cities, towns and school districts to call vote by mail elections during the state primary and general elections.

The vote by mail procedure is not extended to the county who often administers these elections and may have the majority of candidates/issues on the ballot. Allowing each jurisdiction to choose their method of voting while restricting the counties will cause voters in the same county to be required to vote in different manners, in the same election and possibly within blocks of each other.

This will be difficult to explain to the voters, increase provisional ballots, delay final vote tallies while discouraging and frustrating the voters.

Allowing the county to choose the type of election they are responsible for will unify the method of voting for all constituents. Voter outreach will be simplified and administration of the election will be conducted in the most fiscally responsible and efficient manner for the county and the taxpayers.

Permissible language will allow counties to examine their specific election needs enabling them to better serve voters and direct the county resources where most beneficial.

16-204. Declaration of statewide concern; consolidated election dates; definition

A. The legislature finds and determines that for the purposes of increasing voter participation and for decreasing the costs to the taxpayers it is a matter of statewide concern that all elections in this state be conducted on a limited number of days and, therefore, the legislature finds and declares that the holding of all elections on certain specific consolidated days is a matter of statewide concern. This section preempts all local laws, ordinances and charter provisions to the contrary.

B. For elections held before 2014 and notwithstanding any other law or any charter or ordinance of any county, city or town to the contrary, an election held for or on behalf of a county, city or town, a school district, a community college district or special districts organized pursuant to title 48, chapters 5, 6, 8, 10, 13 through 16 and 33 may only be held on the following dates:

1. Except for regular elections for candidates in a city or town with a population of one hundred seventy-five thousand or more persons, all elections, including recall elections and special elections to fill vacancies, shall be held on:

(a) The second Tuesday in March.

(b) The third Tuesday in May.

(c) The tenth Tuesday before the first Tuesday after the first Monday in November.

(d) The first Tuesday after the first Monday in November. Notwithstanding any other law, an election must be held on this date for the approval of an obligation or other authorization requiring or authorizing the assessment of secondary property taxes by a county, city, town, school district, community college district or special taxing district, except as provided by title 48.

2. For regular elections that are only for candidates in a city or town with a population of one hundred seventy-five thousand or more persons and not including recall elections and special elections to fill vacancies in those cities or towns, elections shall be held on:

(a) The tenth Tuesday before the first Tuesday after the first Monday in November.

(b) The first Tuesday after the first Monday in November.

C. For elections held before 2014, for any city or town, including a charter city, that holds its regularly scheduled candidate elections in even-numbered years pursuant to subsection B, paragraph 2, the term of office for a member of the city council or for the office of mayor begins on or after the second Tuesday in January in the year following the election.

D. Subsections B and C of this section do not apply to an election regarding a county or city charter committee or county or city charter proposal that is conducted pursuant to article XIII, section 2 or 3 or article XII, section 5, Constitution of Arizona.

E. Beginning with elections held in 2014 and later and notwithstanding any other law or any charter or ordinance to the contrary, a candidate election held for or on behalf of any political subdivision of this state other than a special election to fill a vacancy or a recall election may only be held on the following dates and only in even-numbered years:

1. The tenth Tuesday before the first Tuesday after the first Monday in November. If the political subdivision holds a primary or first election and a general or runoff election is either required or optional for that political subdivision, the first election shall be held on this date, without regard to whether the political subdivision designates the election a primary election, a first election, a preliminary election or any other descriptive term.

2. The first Tuesday after the first Monday in November. If the political subdivision holds a general election or a runoff election, the second election held shall be held on this date. If the political subdivision holds only a single election and no preliminary or primary or other election is ever held for the purpose of reducing the number of candidates, or receiving a partisan nomination or designation or for any other purpose for that political subdivision, the single election shall be held on this date.

F. Beginning with elections held in 2014 and later that are not candidate elections, an election held for or on behalf of any political subdivision of this state, and including a special election to fill a vacancy or a recall election, may only be held on the following dates:

1. The second Tuesday in March.

2. The third Tuesday in May.

3. The tenth Tuesday before the first Tuesday after the first Monday in November.

4. The first Tuesday after the first Monday in November. Notwithstanding any other law, an election must be held on this date for the approval of an obligation or other authorization requiring or

authorizing the assessment of secondary property taxes by a county, city, town, school district, community college district or special taxing district, except as provided by title 48.

G. Notwithstanding any other law, for an election administered by a county recorder or other officer in charge of elections on behalf of a city, town or school district and that is an all mail ballot election for that city, town or school district, the county recorder or other officer in charge of elections may use a unified ballot format that combines all of the issues applicable to the voters in the city, town or school district requesting the all mail ballot election.

H. In a county in which the permanent early voting list pursuant to A.R.S. 16-544 exceeds 50% of the total county registered voters, the county board of supervisors may conduct a mail ballot election for the purposes of increasing voter participation and for decreasing the costs to the taxpayers. A mail ballot election shall be conducted as otherwise prescribed by Title 16, Chapter 4, Article 8.1

I. H. For the purposes of this section, "political subdivision" means any governmental entity operating under the authority of this state and governed by an elected body, including a city, town, county, school district, community college district or any other district organized under state law but not including a special taxing district.



County Supervisors ASSOCIATION of arizona

2014 Legislative Policy Statement **9th Annual CSA Legislative Summit** **Gila County, AZ** **October 14-16, 2013**

A. What is the legislative proposal?

Change ARS §§ 8-102 and -103 to read as follows (the added language is underlined and in red):

8-102. Who may be adopted

Except as provided in title 14, chapter 8, only a child, or a foreign-born person who is twenty-one years of age or less, and who is not an illegal alien who is present within this state at the time the petition for adoption is filed, may be adopted; provided, however, that if the Petitioner or the Petitioner's spouse is a member of the armed forces of the United States and is stationed abroad at the time the petition for adoption is filed, or if the Petitioner or the Petitioner's spouse is employed abroad at the time the petition for adoption is filed, and in either case the Petitioner or spouse was domiciled in Arizona for at least six (6) months prior to being stationed or employed abroad, the child may be adopted even if the child was not present within this state at the time the petition for adoption is filed.

8-103. Who may adopt

Any adult resident of this state, whether married, unmarried or legally separated, is eligible to qualify to adopt children. A husband and wife may jointly adopt children. For purposes of this section, a member of the armed forces of the United States who is stationed abroad at the time the petition for adoption is filed, and a person who is employed abroad at the time the petition for adoption is filed, is considered a resident of this state if the person was domiciled in Arizona for at least six (6) months prior to being stationed or employed abroad.

B. Describe the policy problem and explain how the proposal solves it.

As currently written, the adoption statutes impose an unnecessary hardship on members of the military who wish to adopt a child but are stationed abroad. This is because ARS § 8-102 allows a child to be adopted only if the child is present in the state at the time the petition for adoption is filed. Thus, if a member of the military or his/her spouse wants to adopt the spouse's child, he/she must return with the child to the United States. The proposed change to ARS § 8-102 would eliminate the requirement that the child be physically present at the time the petition is filed if the petitioner or spouse is a member of the military serving abroad so long as they lived in Arizona for at least six months before being stationed abroad. The six month requirement ensures that the petitioner, spouse and child have a connection to Arizona, so as to prevent forum shopping. The change to ARS § 8-103, regarding who may file for adoption, parallels the change to ARS § 8-102 regarding who may be adopted.

The situation that this proposed change is designed to remedy is common in Cochise County because it is home to Fort Huachuca. Members of the armed forces who are posted at Fort Huachuca frequently are called upon to serve abroad. This situation is likely to occur at other military installations in Arizona.

The proposed changes would also apply to persons who are employed abroad and the children they propose to adopt. This has not been an issue in Cochise County. However, it may occur

in other parts of the State, in which case the adoption statutes as currently drafted would impose an unnecessary hardship on them.

The proposal also adds two commas to the first clause of § 8-102 and one clarifying comma to the first sentence of § 8-103. These commas are not directly related or necessary to the foregoing policy problem that this proposal seeks to solve, but are added to clarify the grammar, and thus the meaning, of these statutes.

C. What is the fiscal impact to the state or county budgets of the proposal?

None.

D. What is the preliminary analysis of the political environment and stakeholders' and affiliates' comments?

I'm sure that military families would appreciate the change. I can think of no constituency that would oppose it. It is extremely doubtful that the current statutory language was drafted with the intent to make adoptions difficult for military families serving abroad.

E. Who is the primary county contact information for the proposal (name, phone, email and other relevant information)?

Britt Hanson
Chief Civil Deputy
Cochise County Attorney
Drawer CA
Bisbee, Arizona 85603
520/227-7000
bhanson@cochise.az.gov



2014 Legislative Policy Statement
9th Annual CSA Legislative Summit
Gila County, AZ
October 14th – 16th, 2013

A. What is the legislative proposal?

The legislation being proposed would provide counties with the ability to regulate the sale of fireworks in the unincorporated areas of the county when Stage 1 fire restrictions are implemented.

B. Describe the problem and explain how the proposal solves it.

In the 49th Regular Session, legislation was passed and signed into law that would allow the sale and use of *permissible consumer fireworks*, unless otherwise regulated by a governing body. The statute allowed an “incorporated city or town to regulate the use of permissible consumer fireworks within its corporate limits,” but only allowed a “county to regulate the use of permissible consumer fireworks in unincorporated areas when there is a reasonable risk of wildfires within the county.”

Change in statute would provide the County Board of Supervisors the option to regulate the use and sale of fireworks when the Forest Service issues Stage 1 Fire Restrictions. The irreparable damage that fires cause is well substantiated in Coconino County and throughout Arizona. Amending this statute would provide a common sense solution, tying the regulation of consumer fireworks to restrictions that are based on science.

C. What is the fiscal impact to the state or county budgets of the proposal?

The fiscal impact of this legislation not being pursued is the continuing threat of catastrophic wildfire during high fire season and the cost of the firefighting and the continued costs of dealing with the aftermath of wildfires.

D. What is the preliminary analysis of the political environment and stakeholders’ and affiliates’ comments?

In the past counties and cities have supported a similar effort. Representatives of the fireworks industry have opposed past efforts, however, this approach follows current procedures in place on stage restrictions during wildfire season.

E. Who is the primary county contact information for the proposal (name, phone, email and other relevant information)?

Joanne Keene, Government Relations Director or Matthew Rudig, Government Relations Assistant for Coconino County

Email: jkeene@coconino.az.gov Phone: (928) 679-7134

mrudig@coconino.az.gov Phone: (928) 679-7137

Suggested Language:

36-1606. Consumer fireworks regulation; state preemption; further regulation of fireworks by local jurisdiction

The sale and use of permissible consumer fireworks are of statewide concern. The regulation of permissible consumer fireworks pursuant to this article and their use is not subject to further regulation by a governing body, except that an incorporated city or town may regulate the use of permissible consumer fireworks within its corporate limits and a county may regulate the **SALE AND** use of permissible consumer fireworks within the unincorporated areas of the county **WHEN A FEDERAL OR STATE AGENCY ENTERS STAGE ONE FIRE RESTRICTIONS** ~~during times when there is a reasonable risk of wildfires~~ **WITH** in the immediate county. This article does not prohibit the imposition by ordinance of further regulations and prohibitions on the sale, use and possession of **PERMISSIBLE CONSUMER** fireworks ~~other than permissible consumer fireworks~~ by a governing body. A governing body shall not permit or authorize the sale, use or possession of any fireworks in violation of this article.

US Forest Service Stage Fire Restrictions

Pursuant to 16 USC 551 and 36 CFR 261.50, and to provide for public safety and protect natural resources; The Secretary of Agriculture, in connection with the administration and regulation of the use and occupancy of the national forests and national grasslands, is authorized to cooperate with any State or political subdivision thereof, on lands which are within or part of any unit of the national forest system, in the enforcement or supervision of the laws or ordinances of a State or subdivision thereof.

Stage 1 Restrictions

- Building, maintaining, attending, or using a fire, campfire, charcoal, coal, or wood stove other than in a developed campsite or picnic area listed in the order.
- Smoking, except within an enclosed vehicle or building, a developed recreation site/improved site or while stopped in an area at least three feet in diameter that is barren or cleared of all flammable materials.
- For Tonto National Forest administered lands under Stage I Restrictions, Discharging a firearm except while engaged in a lawful hunt pursuant to state, federal or tribal laws and regulations.



2014 Legislative Policy Statement
9th Annual CSA Legislative Summit
Gila County, AZ
October 14th – 16th, 2013

A. What is the legislative proposal?

Increase the state motor vehicle fuel tax to fund transportation.

B. Describe the problem and explain how the proposal solves it.

There is currently a \$0.18 cents per gallon state gas tax on all motor vehicle fuels used, possessed or consumed. This fuel tax has not been increased in Arizona since 1991, not reflecting inflation. With more high-efficiency vehicles on the road, and the public driving less, revenues coming into the state are decreasing. At the same time, HURF revenues to counties have consistently declined in the past five years, while the need to fund road maintenance increases.

C. What is the fiscal impact to the state or county budgets of the proposal?

There is no direct study on how a gas tax increase would raise revenues or effect driving behavior; however an increase would improve statewide HURF revenues to counties. There have been more than \$73.6 million in HURF shifts from counties in the last 6 years. Without further infrastructure and maintenance dollars to county roads, there will be an exponential and unpredictable long term cost to counties that will affect economic growth, public safety and other essential services.

D. What is the preliminary analysis of the political environment and stakeholders' and affiliates' comments?

Counties within Arizona may support this legislation. Other stakeholders include the Arizona League of Cities and Towns, Arizona Contractors Association, Arizona Dept. of Transportation and the Arizona Truckers Association.

E. Who is the primary county contact information for the proposal (name, phone, email and other relevant information)?

Joanne Keene, Government Relations Director or Matthew Rudig, Government Relations Assistant for Coconino County
Email: jkeene@coconino.az.gov Phone: (928) 679-7134
mrudig@coconino.az.gov Phone: (928) 679-7137



2014 Legislative Policy Statement
9th Annual CSA Legislative Summit
Gila County, AZ
October 14th – 16th, 2013

A. What is the legislative proposal?

The proposal will restore the amount paid to developmentally-disabled individuals in group homes back to 70%.

B. Describe the problem and explain how the proposal solves it.

In 2010, SB 1011; the Welfare Budget Reconciliation Act changed statutory language to raise the amount of income paid to the Arizona Department of Economic Security (DES) on behalf of residents of group homes from 70% of benefits to 88% of benefits. The change in statute impacted wards of County Public Fiduciary offices that are developmentally-disabled and live in group homes. Due to this change in state statute, most wards have been left with just \$80/month to cover all of their needs.

Changing the benefit amount to wards not only impacts the wards, but also Public Fiduciary Offices, which are mandated by state law and funded solely by counties. These offices are authorized by law to collect fees for their services. However, under the current regulations, counties are challenged with collecting fees from individuals (and recouping costs) from individuals who have no funds. Therefore, fees go uncollected, presenting yet another unfunded mandate to counties.

C. What is the fiscal impact to the state or county budgets of the proposal?

The positive impact of the proposal would be that counties could collect the monthly Public Fiduciary fees, thereby reducing the costs of the state mandated service. There will be an impact on the DES budget.

D. What is the preliminary analysis of the political environment and stakeholders' and affiliates' comments?

The County Public Fiduciaries support this proposal.

E. Who is the primary county contact information for the proposal (name, phone, email and other relevant information)?

Joanne Keene, Government Relations Director or Matthew Rudig, Government Relations Assistant for Coconino County
Email: jkeene@coconino.az.gov Phone: (928) 679-7134
mrudig@coconino.az.gov Phone: (928) 679-7137

Suggested Language:

ARS 36-562

M. Notwithstanding subsections C and H of this section, the department may require clients who are receiving residential programs and who receive income or benefits to contribute to the cost of their support and maintenance, subject to the provisions of federal laws and regulations. Such contributions shall not be subject to subsections A and I of this section. The department shall adopt rules that determine the amount and means of payment of such contributions, except that in no event shall the combined contribution made on behalf of a client by a client or the client's parent or estate exceed the actual cost of the residential programs provided. A minimum of ~~twelve per cent~~ **THIRTY PER CENT** of the client's income or benefits shall be retained for the client's personal use.



2014 Legislative Policy Statement
9th Annual CSA Legislative Summit
Gila County, AZ
October 14th – 16th, 2013

A. What is the legislative proposal?

Codify in statute the ability for Counties to appoint an administrator to oversee indigent legal services.

B. Describe the problem and explain how the proposal solves it.

Statutes provide indigent criminal defendants and others entitled to counsel the right to investigators and expert witnesses, as well as procedures for administering it. The statutes specifically state that compensation for these services “shall be at such rates as the County contracts for them.” Some Counties have collaborated with their courts to authorize an administrator to oversee these expenses, but it is not codified. This proposal will codify this authority in statute, making it permissive for counties.

Administrators are in the best position to gather information regarding requests from indigent parties for investigators or experts and determining reasonable compensation. The appointment of administrators to oversee indigent legal services results in a more efficient use of public resources and creates a less-cumbersome mechanism for initially reviewing and approving service requests. In addition, the appointment of an administrator will allow for a more complete vetting of the requests, thereby saving additional resources.

C. What is the fiscal impact to the state or county budgets of the proposal?

Cost savings will likely result for Arizona Counties.

D. What is the preliminary analysis of the political environment and stakeholders’ and affiliates’ comments?

Counties within Arizona may support this legislation. Other stake holders may include the Arizona Office of Courts and the Arizona Association of Counties.

E. Who is the primary county contact information for the proposal (name, phone, email and other relevant information)?

Joanne Keene, Government Relations Director or Matthew Rudig, Government Relations Assistant for Coconino County
Email: jkeene@coconino.az.gov Phone: (928) 679-7134
mrudig@coconino.az.gov Phone: (928) 679-7137

Proposed Language:

ADDS SECTION 13-4015 to read:

A.R.S. § 13-4015. Legal Services Administration

A. Each county shall oversee the expenses for all indigent legal services for all matters in which a party is entitled to counsel or financial assistance as a matter of law. The Board of Supervisors may designate an agency or administrator with the authority to oversee the expenses. The agency or administrator shall have standing for each case in which public assistance is requested.

B. All requests for expert witnesses, investigators and other legal services shall first be submitted to the administrator for review. The administrator will determine whether the services are reasonably necessary. The administrator will also determine reasonable compensation for them and the counties may designate the administrator to oversee the contracting for them.

C. If the administrator denies a request, the indigent defendants or other parties who submitted it, may appeal to the court handling their matter to order the county to pay for the services, except in those matters in which a public defender is appointed. The administrator may appear before the court on behalf of the county to address the request and provide its position.

MOHAVE COUNTY REQUEST FOR BOARD ACTION FORM

FROM: Mike Hendrix, County Administrator

CONTACT/EXT: 4729

DATE: August 7, 2013

BOS MEETING DATE: August 19, 2013

FORMAL ACTION:

CONSENT

RESOLUTION

OTHER

INFORMATION ONLY

SUMMARIZE THE ISSUE & DESIRED ACTION CLEARLY/ATTACH BACKUP MATERIAL:

Mohave County 2014 Legislative Program

RECOMMENDED MOTION:

Approve Legislative Proposals for Mohave County's 2014 Legislative Program, allowing for additional items to be brought to the Board for consideration.

Reviewed and Approved By:

County Attorney

Human Resources

Finance

County Administrator

Board Action Taken:

Approved as Requested

No Action Taken

Disapproved

Continued to _____

Approved with the following changes:

Acknowledged receipt and referred to: _____

Filing Information and Retrieval

Filed Bid _____	Filed Agreement _____
BOS Resolution _____	Filed Yearly Correspondence _____
Filed Petition _____	Filed Dedication _____
Filed Land Sold _____	Filed Land Acquired _____
Filed Franchise _____	ID Resolution _____
Filed Improvement District _____	Filed Other _____

Date Routed:

Additional Information:

XC:

CS Recno



2014 Legislative Policy Statement
9th Annual CSA Legislative Summit
Gila County, AZ
October 14 - 16, 2013

A. What is the legislative proposal?

Require Arizona State Parks to annually obligate and equitably distribute at least 50 percent (50%) funding from the Arizona State Lake Improvement Fund (SLIF) to counties and local governments by amending ARS §5-382. Arizona Revised Statutes permit counties to use SLIF funds, pending distribution by Arizona State Parks, to fund projects on waters where gasoline powered boats are permitted.

The following presents the legislative proposal to amend ARS §5-382. BLUE CAPS denote proposed additions.

5-382. State lake improvement fund; administration; report

A. A state lake improvement fund is established. Monies deposited in the fund shall be used only as provided in this section.

B. All monies in the state lake improvement fund are appropriated to the Arizona state parks board solely for the purposes provided in this section. Interest earned on monies in the fund shall be credited to the fund. Monies in the state lake improvement fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

C. The Arizona state parks board shall administer the monies in the fund as follows:

1. To fund staff support to plan and administer the state lake improvement fund in conjunction with other administrative tasks and recreation plans of the board.

2. To fund projects on waters where gasoline powered boats are permitted and shall be limited to the following:

(a) Public launching ramps.

(b) Public piers, marinas or marina stadia.

(c) Public toilets, sanitation facilities and domestic waters.

(d) Public picnic tables and facilities.

(e) Public parking areas.

(f) Lake construction or improvement.

(g) Marking buoys and other safety facilities.

(h) Watercraft.

(i) Public campgrounds.

(j) Acquisition of real and personal property through purchase, lease, agreement or otherwise for the purpose of providing access to waters where boating is permitted.

(k) Design and engineering projects.

D. Projects involving expenditure of monies from such fund may be accomplished by the Arizona state parks board, by the Arizona game and fish commission, by the board of supervisors of any county or by the governing body of a city or town, provided such projects do not interfere with any vested water rights, or the operation or maintenance of water projects, including domestic, municipal, irrigation district, drainage district, flood control district or reclamation projects. The Arizona outdoor recreation coordinating commission, established by section 41-511.25, shall examine applications for eligible projects, determine the amount of funding, if any, for each project and submit a list of projects, subject to prior review by the joint committee on capital review, to the Arizona state parks board for allocation from the fund. The board shall annually report to the legislature the expenditures made for such projects in conjunction with the report required by section 41-511.12.

E. State lake improvement funds may be used on projects where matching funds are made available.

F. STATE LAKE IMPROVEMENT FUNDS SHALL BE DIVIDED WITH 50% OF THE ACCRUED FUNDS DEDICATED FOR USE BY ARIZONA STATE PARKS AND THE ARIZONA GAME AND FISH DEPARTMENT AND 50% OF THE AVAILABLE FUNDS DEDICATED FOR USE BY THE BOARD OF SUPERVISORS OF ANY COUNTY OR BY THE GOVERNING BODY OF A CITY OR TOWN TO FUND PROJECTS ON WATERS WHERE GASOLINE POWERED BOATS ARE PERMITTED PURSUANT TO ARS 5-382.C. FUNDS SHALL BE MADE AVAILABLE NOT LESS THAN ANNUALLY.

B. Describe the problem and explain how the proposal solves it.

Arizona State Parks has withheld the State Lake Improvement Fund for its own sole use since 2009. As per ARS 5-382.D, Arizona Counties are entitled to share in this fund; however, the grant process used for distribution has been suspended by Arizona State Parks.

C. What is the fiscal impact to the state or county budgets of the proposal?

Approximately \$5 million per year in SLIF revenue is being collected by Arizona State Parks. Prior to 2009, millions of dollars have been distributed to Arizona Counties through the State Lake Improvement Fund to develop and maintain water-based recreation facilities statewide. Since Arizona State Parks has withheld SLIF revenue distribution, local governments have either suspended projects supporting water-based recreation facilities or absorbed costs through local funding sources.

D. What is the preliminary analysis of the political environment and stakeholders' and affiliates' comments?

Due to the recent budget shortfalls of the State to continue to provide funding for Arizona State Parks, the Agency believed it to be necessary to retain the State Lake Improvement Fund as means of keeping State parks open to the public. While absorbing the SLIF appears to be an honest attempt to preserve the State Park's system, it should not be a long-term solution as an operations funding source. Moreover, the fiscal policy actions of Arizona State Parks fails to return SLIF funds to local water-based recreation sites generating such funds from facility users.

E. Who is the primary county contact information for the proposal (name, phone, email and other relevant information)?

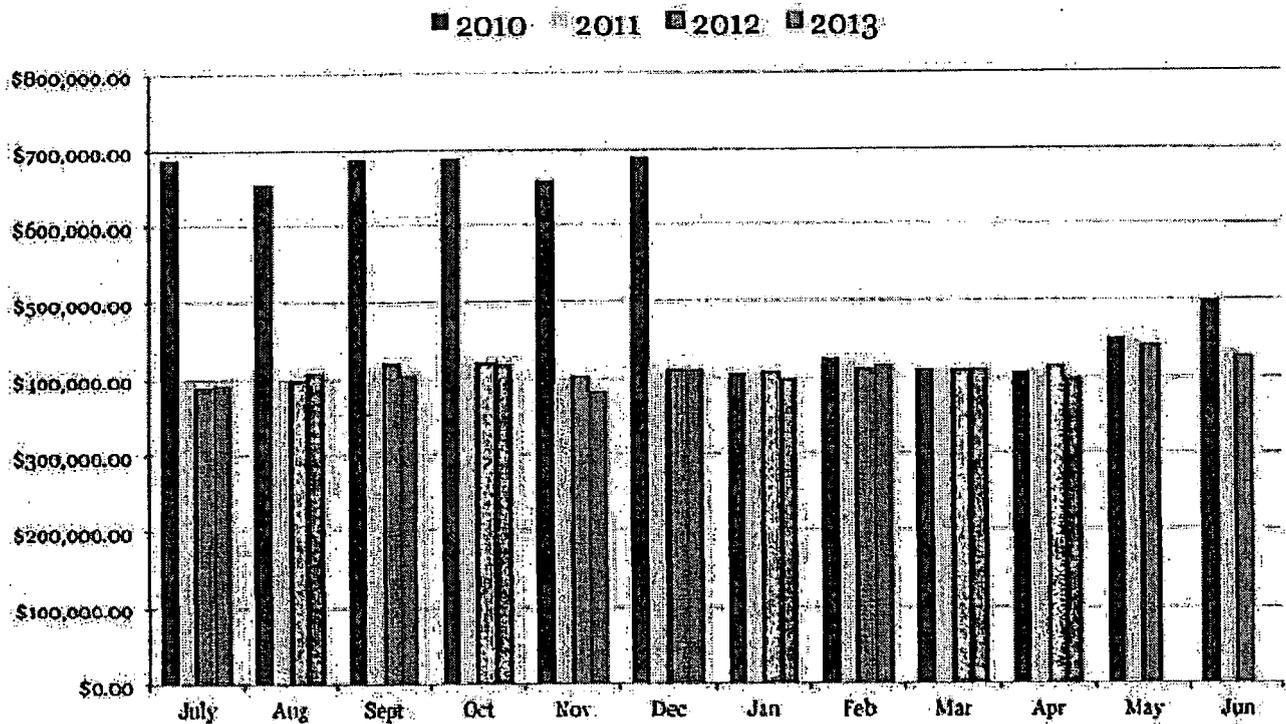
Name: Shawn Blackburn

Phone: 928-757-0915

E-Mail: Shawn.Blackburn@mohavecounty.us

State Lake Improvement Fund FY 2009 - FY 2013 Revenue

G-5



Source: Presentation at the May 15, 2013 meeting of the Arizona State Parks Board

**2014 Legislative Policy Statement
9th Annual CSA Legislative Summit**

**DISCRETIONARY APPOINTMENT OF COUNTY COUNSEL
BY COUNTY BOARD OF SUPERVISORS
Proposed By: LA PAZ COUNTY**

A. What is the legislative proposal?

It is proposed that legislation be presented that amends A.R.S. §11-531 through §11-539 to reflect that a County Board of Supervisors is empowered to hire and appoint “county counsel” for civil legal representation to the Board, its departments, officers, and board and commissions. Such decision to establish “county counsel” would not be mandatory, but an alternative option available to the Board of Supervisors, instead of using the County Attorney for civil services. The “county counsel” option would be solely within the discretion of the Board of Supervisors and will not require obtaining prior approval from the County Attorney. The County Attorney’s primary duties shall be that as the “public prosecutor”, unless requested by the Board of Supervisors to provide civil legal services.

B. Describe the problem and explain how the proposal solves it.

Currently, the statutes mandate that the elected County Attorney shall be the public prosecutor, as well as the civil legal adviser and representative to the Board of Supervisors and its departments. As a result of these dual representative duties, the attorney-client relationship in this particular government context involve unique rules and present a complex situation with potential conflicts and difficult ethical conundrums predominately relating to the County Attorney’s ethical responsibilities to his “client”.

Due to the hazy and sometimes confusing attorney-client relationship the potential to erode the constitutional separation of powers that exist between the legislative and executive branches of County government is ever present.

Many County Attorneys believe and often specifically state that due to their elected status they represent “the public”, “the people” or “the voters”. In fact, legal seminars designed for civil deputy county attorneys actually instruct the attendees using these aforementioned misconceptions.

Even more concerning is the inherent conflict involving an **elected attorney** who relies upon his own political ambitions and desires to stonewall projects, delay decisions, or provide advice based upon his own self-interests to the detriment of his client, the County.

The County Attorney, like the Board of Supervisors, is an elected officer established in the Arizona Constitution, Article 12, Section 3. This constitutional county officer is afforded those duties and powers as prescribed by the Arizona legislature in statutory law. See, Ariz. Const., Art. 12, Sec. 4.

The power and duties of the County Attorney over civil matters involving the Board of Supervisors, its officers, and departments are specifically contained within A.R.S. § 11-532, which mandates, in pertinent part, the following authority:

“A. The county attorney is the public prosecutor of the county and **shall:**

* * *

4. Draw indictments and informations, **defend actions brought against the county** and prosecute actions to recover recognizances forfeited in courts of record and actions for recovery of debts, fines, penalties and forfeitures accruing to the state or county.

* * *

7. When required, **give a written opinion to county officers** on matters relating to the duties of their offices.

8. Keep a register of official business, and **enter therein every action prosecuted, criminal or civil,** and of the proceedings therein.

9. **Act as the legal advisor to the board of supervisors, attend its meetings and oppose claims against the county which the county attorney deems unjust or illegal.**

* * *

12. **Defend all locally valued and assessed property tax appeals as provided in section 42-16208.**

* * * ”

Emphasis Added.

On the other hand, the power and duties of the Board of Supervisors over civil legal matters is specifically contained within A.R.S. § 11-251(14), which states, “The board of supervisors, under such limitations and restrictions as are prescribed by law, **may:. . . 14. Direct and control the prosecution and defense of all actions to which the county is a party, and compromise them.” Emphasis Added.**

As explained by the Arizona Court of Appeals, Division I, in *Romley v. Daughton*, 223 Ariz. 521, 241 P.3d 518 (2010), an analysis of the “*Woodall-Grossetta-Barnes* trilogy” of cases addresses the authority of a Board of Supervisors to hire independent counsel for civil legal matters. The following three cases that comprise the aforementioned “trilogy” outline the limited authority of a County Board of Supervisors to retaining independent civil counsel: *Board of Supervisors v. Woodall*, 120 Ariz. 379, 586 P.2d 628 (1978); *Pima County v. Grossetta*, 54 Ariz. 530, 97 P.2d 538 (1939); and, *County of Santa Cruz v. Barnes*, 9 Ariz. 42, 76 P. 621 (1904).

In a nutshell¹, a review of the aforementioned “trilogy” of cases reveals that since territorial times and under current law, the authority of a Board of Supervisors to hire its own counsel is narrow. Generally, a Board **may not** hire its own counsel to provide legal advice if the County Attorney is available to do so. The exceptions to this rule include, when the county attorney refuses to act, is incapable of acting, or is unavailable.

The determination of “**unavailability**” may include the County Attorney having a conflict of interest; however, the Board cannot seek a declaratory judgment concerning “unavailability” until having attempted and failed to resolve the matter through discussion with the County Attorney under the guidance of the Attorney General.

However, a Board of Supervisors is empowered as the “final authority” controlling cases involving the interests of the county to retain outside litigation counsel under the “implied authority” and discretion contained within A.R.S. § 11-251(14) to, “Direct and control the prosecution and defense of all actions to which the county is a party, and compromise them.”

Although seeking of the County Attorney’s consent to hire **is not** always required there are certain circumstances in addition to those exceptions discussed above that must be present before a Board can do so. However, each situation must be reviewed on a case by case basis. This includes situations where the Board and the County Attorney do not agree how a legal action is to be handled or brought. In other words, there must be a “*lack of harmony*” between the two offices. This disharmony specifically deals with legal strategy not relationships. Under these circumstances, the Board as the “final authority” possesses the unilateral ability to determine that

¹ Legal citations to the above discussed information relating to the Board’s “limited authority” have been deleted due to space limitation; however, is available upon request.

harmony is lacking and may seek independent counsel, even without the consent of the County Attorney. Of course, this does not mean that a Board can indiscriminately deprive the County Attorney of his authority to be the legal representative of the County.

Unfortunately, the current law limiting the authority of a Board of Supervisors to hire independent legal counsel has resulted in several abhorred and shocking cases of malfeasance, misfeasance, unethical misconduct, abuse of authority and legal process by County Attorneys against their own clients, the Board of Supervisors.

A recent textbook example of the type and extent of destructive abuse that can be unwarranted and intentional as illustrated in the disciplinary disbarment of former Maricopa County Attorney Andrew Thomas. A review of the published *Opinion and Order Imposing Sanctions*² from the Presiding Disciplinary Judge, William J. O’Neil in the Arizona Supreme Court Discipline clearly reveals the harmful impact that can be perpetrated upon a Board of Supervisors and County organization by the County Attorney.

Ironically, the initiating fact that first lit the fuse resulting in Thomas’ fervent pursuit of members of the Maricopa County Board of Supervisors relates back to a meeting with a Board member prior to Thomas’ election as County Attorney. At that subject meeting the question was raised whether as County Attorney Thomas would allow the Board of Supervisors to hire its own civil county counsel that answered directly to the Board. Candidate Andrew Thomas agreed to do so. After Thomas’ election the request for independent “county counsel” was formally requested by the Board, which sparked the controversial and unlawful indictments, search warrants, investigations, lawsuits, etc., against the Board.

All these actions were taken against his own client, the Board of Supervisors. In fact, he divulged attorney/client privileged and confidential information in press releases, as well as blocked the Board from hiring outside counsel even though an apparent conflict existed.

A review of the *Thomas* ethics opinion clearly found that the “client” of the County Attorney is the county through its Board of Supervisors. Nowhere did the ethics opinion state that the clients of the County Attorney was “the public” or “the people”, although Thomas argued “the voters”

² See http://www.azcourts.gov/Portals/9/Press%20Releases/2012/041012ThomasAubuchonAlexander_opinion.pdf

were his clients and had a “right to know” what the Board of Supervisors were doing. This contention was held groundless by the Disciplinary Judge.

Clearly, as a public prosecutor who represents the State’s interests the County Attorney represents the State on behalf of the people or general public; however, the real client in civil matters is much more difficult to ascertain when involving governmental entities.

Unfortunately, this is not an isolated incident. Abuse of authority and process can occur at any time due to the nature of human interaction.

As another example of the County Attorney misusing his authority can be found in *Upton v. La Paz County*, 986 P.2d 252, 195 Ariz. 219 (Ariz. App., 1999). In this action, a former County Supervisor, Greg Upton, was sued after he left office for recovery of alleged illegally paid funds for travel/mileage expenses paid during Upton’s term for special projects assigned to him by the Board.

Initially, allegations of misuse of monies were raised by the County Attorney just prior to the General Election. Although only raised in the trial court, the lame-duck County Attorney made these allegations even though he specifically knew of the Supervisor’s travel expenses by attending each Board meeting and actually advised the subject Supervisor of the appropriateness of such charges. Subsequently, Upton lost his re-election due to these allegations. The *Upton* Court held that the issue of estoppel should be heard by the trial court due to affirmative actions taken by county officials, including the County Attorney, to pay the reimbursements properly relied upon by Supervisor Upton. Clearly, the timing of the misuse of money allegations through the County Attorney’s actions were calculated and made for purely political purposes.

Moreover, other counties’ Board of Supervisors has experienced legal conflicts with their County Attorney. For instance, in the late 1980’s Gila County’s Board was sued over budgeting issues by its County Attorney. Besides representing his own office, the County Attorney also represented several other elected officials.

How can you trust the legal advice of your own attorney when he may sue you over doing your duties??

THE SOLUTION: In several other States' throughout the Country this ethical challenge has been addressed by a statutory option. The California and Michigan State Legislatures have promulgated statutes providing that County Boards of Supervisors (aka County Commissioners) are empowered, at each Board's sole discretion, to appoint "county counsel" or "corporate counsel" to represent the Board as well as other County officers, County departments, boards and commissions.

In these States, the County Attorney is designated as an elected "county prosecutor" who predominating pursues only matters of a criminal nature, unless required by or approved by the Board of Supervisors to handle civil actions (i.e., dependencies, etc.).

Under the "county counsel" system, the County Attorney does not have the authority to prevent the Board from hiring its own civil counsel. The decision and appointment of "county counsel" is left to the Board of Supervisors' discretion. This option is available in both charter and general law counties. The position of "county counsel" serves as a legal adviser and attorney to the County Board, its departments and officers; and serves as an at-will employee.

In the States that offer this option, the differing requirements to specifically establish "county counsel" run the gambit, from needing an unanimous or super-majority vote of the Board; to limiting the "county counsel" option only to smaller counties (e.g., with under 500,000 residents).

Clearly, those entities with "home rule" or charters could seek voter approval to established appointed "corporate counsel".

Although a Board may currently have no problem with their County Attorney providing services; every four years an election occurs and a new County Attorney may be elected that is uncooperative and does not have the Board's interests in mind.

Frankly, each County is only one election away from potential disastrous consequences. Regrettably, the pursuit of public office will always attract certain individuals of

questionable ethics and hidden agendas who based decisions and take actions that benefit their self-interests and political ambitions. By having an option to select independent county counsel the Board of Supervisors will have the tools to avoid the situation Maricopa County found itself in a few years ago.

C. What is the fiscal impact to the state or county budgets of the proposal?

The fiscal impact to the State and County governments is *de minimis* at best, in that, if the option to hire independent county counsel is approved a cost shift of current budgeted funds would occur. Simply put, those appropriations currently budgeted for the County Attorney Office civil divisions can be shifted to pay for “county counsel” depending upon whether a respective Board of Supervisors desires to use its discretionary authority to appoint its own counsel.

In fact, there may be a savings realized by a reduction of internal conflicts and subsequent legal actions between elected county offices.

D. What is the preliminary analysis of the political environment and stakeholders’ and affiliates’ comments?

The proposed legislation is intended to merely offer an alternative option for counties to appoint their own “county counsel”. Small to medium size counties do not necessarily have large civil divisions that would be affected, and therefore, would not result in mass layoffs if the proposed option was initiated.

Obviously, the Maricopa County Board of Supervisors, its staff, officers and departments had inordinately suffered under the Andrew Thomas Regime. A county may presently have no issue with their County Attorney; however, elections occur at least every four years and changes happen. It is only a matter of time before one of the Counties experiences issues with its County Attorney. It has happened in the past and surely will happen again.

Outside civil counsel, especially those who were targeted by Thomas may support this change. These attorneys include, Rick Romley and Thomas Irvine, etc., and perhaps the Arizona State Bar would also support.

It is believed that the County Attorneys will argue they are the “check and balance” against the Board’s illegal actions; however, this ignores the fundamental concept of the separation of powers in County government. The County Attorney as the public prosecutor can still proceed criminally against the Board without also providing civil representation.

E. Who is the primary county contact information for the proposal (name, phone, email and other relevant information)?

Name: Dan Field

Phone: (928) 669-6115

E-mail: dfield@co.la-paz.az.us

"41-130. Use of state seal restricted; violation; classification

A person may use, display or otherwise employ any facsimile, copy, likeness, imitation or other resemblance of the great seal of this state only after obtaining the approval of the secretary of state.

The secretary of state may grant a certificate of approval upon application by any person showing good cause for the use of the great seal of this state for a proper purpose. The great seal of this state shall in no way be employed by anyone other than a state agency for the purpose of advertising or promoting the sale of any article of merchandise whatever within this state or for promoting any other commercial purpose. The secretary of state may promulgate rules for the use of the great seal of this state or any facsimile, copy, likeness, imitation or other resemblance of the great seal. Any person who knowingly violates this section is guilty of a class 3 misdemeanor."

I would suggest something like the following to protect our seal. I would add protections to the seals of all other subdivisions of the state in order protect the public and increase the likelihood for support for the bill. Obviously, such a bill is probably too late for this year's legislature, but it could be introduced next year.

A. A city, town, county, school district, or community college district or any agency thereof may register an official seal with the Secretary of State's Office. Title 48 special taxing districts may register official seals with the Clerk of the Board of Supervisors of the county where they are located.

B. The Secretary of State and the Clerks of the County Boards of Supervisors shall display on their websites each registered seal along with the text of this statute.

C. A person may use, display or otherwise employ any facsimile, copy, likeness, imitation or other resemblance of a registered seal of a city, town, county, school district, community college district, special taxing district of state or any agency thereof only after obtaining the approval of the entity that has registered the seal. Each entity may grant a certificate of approval upon application by any person showing good cause for the use of the **registered seal** ~~great seal of this state~~ for a proper purpose. Registered seals shall in no way be employed by anyone other than the entity registering the seal for the purpose of advertising or promoting the sale of any article of merchandise whatever within this state or for promoting any other commercial purpose. Each registering entity may promulgate rules for the use of its registered seal or any facsimile, copy, likeness, imitation or other resemblance of the **registered seal** ~~great seal~~. Any person who knowingly violates this section is guilty of a class 3 misdemeanor.

D. Notwithstanding this statute, a registered seal may be used for non-commercial speech without violating this statute as long such use does not reasonably convey endorsement by the entity that registered the seal.

E. Non-commercial use of a registered seal does not reasonably convey endorsement by the registered entity if it is accompanied by the following disclaimer written in a font at least as prominent as the average readable text found elsewhere in the communication:

"Use of this seal does not convey the endorsement of or approval by [[insert name of entity that registered the seal]]. This is not a communication of [[insert name of entity that registered the seal]]."

2014 Legislative Policy Statement
9th Annual CSA Legislative Summit
Gila County, Arizona
October 14-16, 2013

A. What is the legislative proposal?

A revision to A.R.S. §41-130 which restricts the use of the “Great Seal of the State of Arizona” to include County seals.

B. Describe the problem and explain how the proposal solves it.

There have been instances when County seals have appeared on campaign literature from candidates for County office during elections. This practice may give citizens the impression the mailing was from the County, giving a false impression of official County business and/or an endorsement.

C. What is the fiscal impact to the state or county budgets of the proposal?

Unknown.

D. What is the preliminary analysis of the political environment and stakeholders’ and affiliates’ comments?

Opposition could be that sufficient protection exists in A.R.S. §16.925 which provides, in part:

- A. In an attempt to influence the outcome of an election, an individual or committee shall not deliver or mail any document that falsely purports to be a mailing authorized, approved, required, sent or reviewed by or that falsely simulates a document from the government of this state, a county, city or town or any other political subdivision

E. Who is the primary county contact for information for the proposal?

Name: Jacque Griffin, Assistant County Manager

Phone: (928) 402-8770

E-Mail: jgriffin@gilacountyaz.gov



2014 Legislative Policy Statement
9th Annual CSA Legislative Summit
Gila County, AZ
October 14-16, 2013

A. What is the legislative proposal?

Renew the use of the “flexibility language” as session law, to allow counties to use any source of county revenue to meet a county fiscal obligation for FY 2015.

B. Describe the problem and explain how the proposal solves it.

The effect of the economic downturn on county revenues, compounded by impacts from the State over the last six years has created a situation that cannot be sustained at current revenue levels.

Property tax values continue to decline across many counties, while increased costs in various aspects of county government and employee related expenses point to a failure or reduction of county services that is a disservice to the public interest. In many respects, the decline of revenues has been a healthy and productive opportunity for counties to become more efficient and conservative with the expenditure of tax dollars, however, many county governments cannot continue to function without an appropriate amount of available resources.

If the impact to county revenues had been limited to declines occurring at a local level, it is not beyond reason to speculate that there would have been room for each individual county to absorb those declines over time. However, over the last six years, counties, as subdivisions of the State, have partnered with the Legislature to assist in its’ efforts to re-establish a sustainable budget outlook for Arizona. During that time a number of sweeps, reductions and re-allocations of responsibilities were, and continue to be, absorbed by counties, and despite the best efforts of staff and elected officials, many counties are still faced with the prospect of operating expenses, including ERE, rising as properties values continue to decline and we only see modest increases in sales tax revenues.

This proposal would give a Board of Supervisors authority to use revenues from secondary districts to fulfill a county fiscal obligation.

C. What is the fiscal impact to the state or county budgets of the proposal?

Varied impact to county budgets should they elect to use the authority. No anticipated impact to the state budget.

D. What is the preliminary analysis of the political environment and stakeholders’ and affiliates’ comments?

The “flexibility language” has been part of session law for the last 4 years. Two years ago a component was added to the language requiring counties who elect to use the authority to report their action to JLBC, and the one-year nature of the language has required counties to provide current justification for the existence of the authority.

In light of the increasing difficulty that counties are faced with to generate appropriate revenue this authority is viewed a failsafe measure, and as such, it has garnered the needed support of members in leadership and the general body of both houses when a reasonable level of need can be demonstrated.

- E. Who is the primary county contact information for the proposal (name, phone, email and other relevant information)?

Hunter Moore
Navajo County Government Affairs Director
(480) 254-2387 cell
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DRAFT



2014 Legislative Policy Statement

9th Annual CSA Legislative Summit

Gila County, AZ

October 14 - 16, 2013

A. What is the legislative proposal?

To amend ARS §42-18204 to include County liens for nuisance abatements corrected pursuant to Title 36 chapters 1 and 6, and County liens for dangerous building abatement done in accordance with Section 110 of the International Property Maintenance Code, as not being extinguished by foreclosure of the right to redeem property taxes.

B. Describe the problem and explain how the proposal solves it.

Investors purchase tax liens on properties on which the County then spends or has spent tax dollars to abate nuisances and/or dangerous buildings, then foreclose the right to redeem and take the improved property free of the County's lien(s). Including these liens as not being extinguished protects the County's investment in abating the nuisance and/or dangerous building.

C. What is the fiscal impact to the state or county budgets of the proposal?

It allows more opportunity to recoup monies spent on nuisance and dangerous building abatement.

D. What is the preliminary analysis of the political environment and stakeholders' and affiliates' comments?

E. Who is the primary county contact information for the proposal (name, phone, email and other relevant information)?

Name: Dolores Milkie

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E-Mail: Dolores.milkie@mohavecounty.us

CURRENT VERSION

42-18204. Judgment foreclosing right to redeem; effect

A. In an action to foreclose the right to redeem, if the court finds that the sale is valid and that the tax lien has not been redeemed, the court shall enter judgment:

1. Foreclosing the right of the defendant to redeem.
2. Directing the county treasurer to expeditiously execute and deliver to the party in whose favor judgment is entered, including the state, a deed conveying the property described in the certificate of purchase.

B. After entering judgment the parties whose rights to redeem the tax lien are thereby foreclosed have no further legal or equitable right, title or interest in the property subject to the right of appeal and stay of execution as in other civil actions.

C. The foreclosure of the right to redeem does not extinguish any easement on or appurtenant to the property.

D. The foreclosure of the right to redeem does not extinguish any lien for an assessment levied pursuant to title 48, chapter 4, 6, 14 or 18, or section 9-276.

AMENDED VERSION

42-18204. Judgment foreclosing right to redeem; effect

A. In an action to foreclose the right to redeem, if the court finds that the sale is valid and that the tax lien has not been redeemed, the court shall enter judgment:

1. Foreclosing the right of the defendant to redeem.
2. Directing the county treasurer to expeditiously execute and deliver to the party in whose favor judgment is entered, including the state, a deed conveying the property described in the certificate of purchase.

B. After entering judgment the parties whose rights to redeem the tax lien are thereby foreclosed have no further legal or equitable right, title or interest in the property subject to the right of appeal and stay of execution as in other civil actions.

C. The foreclosure of the right to redeem does not extinguish any easement on or appurtenant to the property.

D. The foreclosure of the right to redeem does not extinguish any lien for an assessment levied pursuant to title 48, chapter 4, 6, 14 or 18, or section 9-276; or County liens for nuisance abatements obtained under Title 36 chapters 1 and 6; or County liens for dangerous building abatement done in accordance with Section 110 of the International Property Maintenance Code.