

2011**ARIZONA LEGISLATIVE WRAP-UP**

The Arizona Legislature adjourned for the year on April 20, 2011 at 5:25 a.m. following a session lasting 100 days. During the session, 1,350 bills were introduced, 386 were passed by the Legislature. Governor Jan Brewer vetoed 29 bills and signed 357 bills into law. The Legislature will convene for the 2012 regular session on January 9, 2012 at noon. The general effective date for legislative acts without the emergency clause or specified later dates is July 20, 2011.

Below are summaries of the key bills that APMA monitored during the 2011 legislative session. If you have any questions regarding this wrap-up or would like a copy of a particular bill or chaptered law, please call Andrea Martincic at (480) 460-1561.

EMPLOYMENT ISSUESHB 2541: MEDICAL MARIJUANA; EMPLOYER MONITORING (Rep. Yee)

The list of protections from litigation enjoyed by employers regarding the implementation of drug policies at the work place is expanded to include: actions based on the employer's good faith belief (defined) that an employee used or possessed any drug while at the work place or on company time; actions based on the good faith belief that an employee was impaired while working or on company time; and actions to exclude an employee from performing a safety-sensitive position based on the belief the employee was using any drug - legal or illegal - if the drug could cause impairment. Further, employers are generally protected from litigation for implementing or monitoring measures to assess, supervise or control the job performance of an employee, including reassignment, suspension or termination of the employee. Employers are added to the list of entities that may use the Dept of Health Services' registry to verify an employee's or applicant's valid marijuana registry ID card. Severability clause. Received 2/3 majority required to amend statutes that have been approved by voters, pursuant to Prop 105. **Chapter 336, Laws 2011.**

ENVIRONMENTHB 2665: ENVIRONMENT; REGULATORY CHANGES (Rep. Reeve)

Various changes in statutes governing the operation of the Dept of Environmental Quality (DEQ), including: the list of items that a regulated person whose premises is being inspected has the right to request is expanded to include documents to be relied upon to determine compliance with regulations; if a DEQ inspection finds deficiencies that the agency is not permitted by law to

allow the regulated person to correct, the agency must provide a written explanation of why the opportunity to correct was not allowed; evidence of serious violations gathered improperly by a regulator that previously could not be excluded from being used as evidence in a civil or administrative proceeding is now admissible only at the discretion of the Trier of fact. **CHAPTER 291, Laws 2011.**

INSURANCE

HB 2616: WORKERS' COMP; CONTROLLED SUBSTANCES (Rep. McClain)

The list of substances used by a person receiving workers' comp benefits that a physician, upon request, must report to the Industrial Commission is expanded to include narcotic or opium-based substances or various opiate substances prescribed for acute pain. If the physician refuses to comply, the employer, carrier or Industrial Commission may request a change of physician and require physician compliance. **Chapter 338, Laws 2011.**

SB1102: STATE COMPENSATION FUND; CONFORMING CHANGES (Sen. McComish)

Effective January 1, 2013, makes numerous changes to statutes relating to the State Compensation Fund in order to conform with Laws 2010, Chapter 268, which terminated the SCF, allowing it to become a private sector entity on July 1, 2012. Also repeals the July 1, 2010, termination of the Worker's Compensation Appeals Board, retroactive to July 1, 2010. Additionally, it is a class 6 (lowest) felony for an employer to willfully misrepresent to an insurance carrier the amount of payroll or other factors on which the workers' compensation premium is based. As session law, for the purposes of calculating any tax or assessment to be paid by an authorized self-insured employer (including a workers' comp pool), the deviation rate is set at 10% for calendar years 2013 through 2015. **Chapter 157, Laws 2011.**

SB1264: WORKERS' COMPENSATION; REASONABLE ACCOMODATIONS (Sen. McComish)

If an employer has made "reasonable accommodations" (defined) pursuant to the Americans with Disabilities Act, wages payable for the modified job position shall be included in the determination of any temporary partial or permanent partial earning capacity even if the modified job is not available in the open, competitive labor market. Establishes conditions whereby a person who intends to advocate for a legislative proposal pertaining to workers' comp law must submit a report to the Joint Legislative Audit Committee by Sept. 1 prior to the start of the legislative session for which the legislation will be proposed. The report is required if the proposed legislation would either mandate an insurer (including a self-insured employer) deem a disease or condition is caused by employment; or substantially modify an existing statute that establishes a

presumption of compensability for a disease or condition. Contents of the report are prescribed. **Chapter 345, Laws 2011.**

SB1567: INSURANCE; NOTICE OF CHANGE, NONRENEWAL (Sen. McComish)

A notice of cancellation or of nonrenewal of an insurance policy must be sent to the insured at least 45 days (formerly, 60 days) before the effective date of the change. Similarly, the notice of other changes (e.g., premium increase, amount of deductible, reduction in coverage) must be sent 30 days (formerly, 60 days) before the expiration of the policy. Timely delivery of a statement of new policy terms and conditions is considered proper notice. **Chapter 327, Laws 2011.**

TAXES/BUDGET

(Insert a brief summary of the budget bills from JLBC)

TRANSPORTATION

HB 2359: TRANSPORT CONTRACTS; INDEMNITY AGREEMENTS (Rep. Jerry Weiers)

With stated exceptions, a provision of a transportation contract or agreement that purports to indemnify the shipper or shipper's agent against liability for loss or damage resulting from the negligence of the shipper or shipper's agents is void and unenforceable. **Chapter 54, Laws 2011.**

SB1270: TRANSPORTATION; ADOT; OMNIBUS (Sen. Nelson)

Various changes to statutes relating to the Dept of Transportation (ADOT), including permitting the department to obtain criminal history and consumer report information on applicants for employment, requiring various vehicle equipment to meet applicable federal safety standards, and expanding ADOT's logo sign program (formerly restricted to interstate highways) to any class of state highway. Authorizes ADOT to establish agreements with third parties to act as vehicle title and registration partners, with different contractual provisions from those governing the currently authorized third-party service providers. Modifies various licensure requirements for motor vehicle dealers. **Chapter 190, Laws 2011.**

OTHER

HB 2136: STATE AGENCIES; FEE REVIEW COMMISSION (Rep. Reeve)

A 13-member State Agency Fee Commission is invented to review the fee

processes and structures of all state agencies. An annual comprehensive report is required, beginning on Oct. 1, 2012. **Failed to Pass the Senate 4/19 by a vote of 10-19.**

HB 2314: STATE AGENCY FEES; COMMISSION (Rep. Jones)

A 13-member State Agency Fee Commission is established to review the fee structure of all state agencies and issue an annual analysis of fees according to stated criteria. Statutory authority for the commission terminates on Oct. 1, 2016. The authority to administer the Law Enforcement and Boating Safety Fund (LEBSF) is removed from the State Parks Board. Only counties that had a law enforcement and boating safety program in effect before July 1, 1990, are eligible to receive monies from the LEBSF. Monthly distribution of monies to eligible counties shall be determined by a formula established by the Game and Fish Commission. Criteria to be used by the Commission to establish the allocation formula are changed to add input from boards of supervisors receiving funds and boat accident data for waterways within the county. Deletes the requirement that counties that receive LEBSF monies must match grants with own source funds. The LEBSF is removed as a funding source for grants awarded by the Outdoor Recreation Coordinating Committee. Effective July 1, 2012. **Chapter 333, Laws 2011**

SB 1322: CITIES; SERVICES; MANAGED COMPETITION (Sen. Antenori)

Every city whose population is greater than 500,000 must provide each municipal service whose annual cost is \$500,000 or more through open and competitive bidding. Governmental departments and entities may participate in the bidding. These cities may additionally choose to use competitive bidding to provide services whose annual cost is less than \$500,000. The city must adopt written statements of work for each service for which bids will be sought. All documents and communications related to competitive bidding are public records. Any taxpayer in the city may bring special action to enforce compliance. **VETOED 4/28.**

Veto Message Summary: Governor Brewer stated she is a strong proponent of privatization and responsible stewardship in government and referenced her creation of the Arizona Commerce Authority as well as the Commission of Privatization and Efficiency. However, Brewer felt that SB 1322 omitted vital definitions and parameters needed to determine costs. There was a fear that public buildings could jeopardize their tax exempt bond status, as well as concern about court administration and crime lab staff. Brewer also noted that philosophically, the most effective, responsible and responsive government is government closest to the people at the local level.