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*Denotes 2018 ASRS Legislative Initiatives

Bills Signed and Chaptered

HB2034 Social Security; State Agency Designation*

Laws 2018, Chapter 75

Sponsor: Livingston

For the purpose of Social Security and retirement statutes, the definition of "state agency" is changed to the state agency that is designated by the Governor to serve as the Social Security administrator for the state, instead of the ASRS Board. All rules adopted by the ASRS Board remain in full force until amended by the state agency designated by the Governor.

Provisions:

- 1) Removes the ASRS as the *state agency* designated as the Social Security administrator. (§ 1)
- 2) Allows the Governor to designate a state agency as the Social Security administrator for Arizona under the Federal Old-Age and Survivors Insurance System. (§ 1)
- 3) Retains all rules adopted by the ASRS Board until amended by the state agency that is designated by the Governor to serve as Social Security administrator for Arizona. (§ 2)

Current Law:

The Governor may enter into an agreement with the Commissioner of Social Security for the purpose of extending the benefits of the Federal Old-Age and Survivors Insurance System to employees of Arizona or any political subdivision. The agreement may contain provisions relating to coverage, benefits, contributions, effective date, modification of the agreement, notification of dissolution of entities, administration and other appropriate provisions (A.R.S. § 38-702).

The ASRS Board is the *state agency* designated as the Social Security administrator for Arizona (A.R.S. § 38-701). Duties of the administrator include:

- a) Approving benefit plans submitted by political subdivisions; and
- b) Adopting rules for administering duties (A.R.S. §§ 38-703, 38-704).

The state agency may conduct studies concerning the problem of the Old-Age and Survivors Insurance protections for employees and the operation of agreements made and plans approved. Additionally, the state agency is allowed to submit a report to the legislature on the administration and operation of the preceding calendar year (A.R.S. § 38-705).

Final Disposition:

Passed House B&I Committee on January 11, 2018; 5-3

Passed House Third Read on February 6, 2018; 34-24-1-0-1

Passed Senate FIN Committee on February 28, 2018; 6-1

Passed Senate Third Read on March 21, 2018; 27-2-1

Signed by Governor on March 27, 2018

Effective Date: August 3, 2018

Cost/Savings Impact:

If the Governor designates another state agency as the State Social Security Administrator, then the current ASRS resources devoted to administering those responsibilities could be redistributed to other areas within the ASRS.

HB2035 Deferred Compensation Plans; Governing Committee*

Laws 2018, Chapter 90

Sponsor: Livingston

Changes the name of the Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans to the Governing Committee for Deferred Compensation Plans, and modifies Committee membership. Committee members are subject to conflict of interest statutes. The powers and duties of the Committee are modified, including allowing the Committee to adopt rules and to require the Committee to arrange for a performance review of the plans or participation in benchmarking surveys or studies at least every five years.

Provisions:

Deferred Compensation Plans Committee (§ 3)

- 1) Renames the Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans to the Committee.
- 2) Modifies the Committee membership by replacing three state employees with three members who are either:
 - a) A person who has an account balance in a deferred compensation plan overseen by the Committee; or
 - b) A person who has at least 10 years of relevant experience in either finance, investment management, pension plans, or retirement plans.
- 3) Subjects Committee members to statute relating to conflict of interest.
- 4) Clarifies the Committee may enter into agreements with companies with demonstrable expertise in the areas relating to deferred compensation plans.
- 5) Allows the Committee to adopt rules.
- 6) Modifies the duties of the Committee as follows:
 - a) Arrange for consolidated billing so that plans operate without cost to the state except for expenses of statutorily required administrative duties and administering payroll.
 - b) b. Meet quarterly.
 - c) c. Arrange for a performance review of the plans at least every five years.

Miscellaneous

- 7) Removes the option for state employees to participate in tax deferred annuities. (§ 4)
- 8) Makes technical and conforming changes. (§§ 1, 2)

Current Law:

Established by Laws 1972, Chapter 133, the 7-member Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans is authorized to investigate and approve tax deferred compensation and annuity programs which give state employees income tax benefits (A.R.S. § 38-871). Currently the Committee oversees three different plans: 457 plans, Supplemental 401(a) plans, and 403(b) plans.

Final Disposition:

Passed House B&I Committee on January 11, 2018; 6-2

Passed House Third Read on February 6, 2018; 34-24-1-0-1

Passed Senate FIN Committee on February 28, 2018; 7-0

Passed Senate Third Read on March 27, 2018; 27-3

Signed by Governor on March 29, 2018

Effective Date: August 3, 2018

Cost/Savings Impact:

None expected.

HB2065 Public Meetings; Definition; Penalties

Laws 2018, Chapter 229

Sponsor: Leach

For the purpose of open meeting laws, the definition of "meeting" is expanded to include a one-way communication by one member of a public body that is sent to a quorum of the members of a public body and that proposes legal action, and an exchange of electronic communications among a quorum of the members of a public body that involves a discussion, deliberation or the taking of legal action by the public body concerning a matter that may likely come before the public body for action. The AG is authorized to commence a suit in the superior court against an individual member of a public body for a knowing violation of open meeting law. The maximum civil penalty for a third and subsequent violation of open meeting law is increased to \$2,500, from \$500, and the civil penalty for a first offense is eliminated. If a court imposes a civil penalty against an individual member of a public body for a knowing violation of open meeting law, the public body is prohibited from indemnifying or paying the civil penalty on behalf of the individual.

Provisions:

- 1) Requires the minutes of meetings of public bodies to include a record of how each member voted and the names of members who propose each motion. (§ 2)
- 2) Permits the AG to commence a suit in superior court against an individual member of a public body for knowingly violating open meeting requirements. a. Specifies that a suit against an individual member must occur in the county in which the public body usually meets. (§ 3)
- 3) Permits the court to impose civil penalties in the following amounts for any person who knowingly commits an open meeting law violation.
 - a) Up to \$500 for a second offense, rather than for each offense,; and
 - b) Up to \$2,500 for the third and any subsequent offenses. (§ 3) Currently, the court may impose a civil penalty of up to \$500 for each violation (*A.R.S. § 38-431.07*).
- 4) Prohibits a public body from paying a civil penalty on behalf of an individual or otherwise reimbursing an individual who is penalized for violating open meeting requirements. (§ 3)
- 5) Stipulates that the court may only impose a civil penalty on a person who knowingly violates open meeting requirements. (§ 3)
- 6) Stipulates that if the court finds that person who might otherwise be liable for an open meeting violation objected on a public record to the action of the public body, the court may choose not to impose a civil penalty on that person. (§ 3)
- 7) Stipulates that a public officer with intent to deprive the public of information must have knowingly violated open meeting requirements in order for the court to remove that officer from public office and find them liable for all costs and attorney fees awarded to the plaintiff. (§ 3)

- 8) Expands the definition of *meeting* relating to open meeting requirements to include:
 - a) A one-way electronic communication sent from one member of a public body to a quorum of the members and that proposes legal action; and
 - b) An exchange of electronic communications among a quorum of the members of a public body that involves a discussion, deliberation or legal action on a matter to come before the body. (§ 1)
- 9) Makes technical and conforming changes. (§§ 1, 2, 3)

Current Law:

All meetings of public bodies must be public meetings open to all persons desiring to be permitted to attend or listen to the deliberations and proceedings. All legal actions of public bodies are required to occur during public meetings. All public bodies are required to provide minutes of their meetings which must include: the time and location of the meeting; attendance of the members; a general description of considered items; and an accurate description of all legal actions taken (A.R.S. § 38-431.01). All legal action transacted by a public body during a meeting held in violation of open meeting requirements is considered null and void (A.R.S. § 38-431.05).

Upon receipt of a written complaint alleging a violation of open meeting requirement, the AG or county attorney may begin an investigation (A.R.S. § 38-431.06). Any person affected by an alleged violation, the AG or the county attorney may commence a suit in superior court for the purpose of requiring compliance with open meeting law requirements. The court may impose a civil penalty of up to \$500 for each violation against a person who violates open meeting requirements.

Final Disposition:

Passed House GOV Committee as amended on February 1, 2018; 7-0-0-1

Passed House Third Read on February 21, 2018; 55-2-3

Passed Senate GOV Committee on March 7, 2018; 6-1

Passed Senate Third Read as amended on April 4, 2018; 28-2

Passed House Final Read on April 11, 2018; 56-2-2

Signed by Governor on April 17, 2018

Effective Date: August 3, 2018

Cost/Savings Impact:

None expected.

HB2097 Pension Funding Policies; Employers

Laws 2018, Chapter 112

Sponsor: Livingston

Beginning on or before July 1, 2019, each governing body of a PSPRS employer is required to annually adopt a pension funding policy for the PSPRS for employees that were hired before July 1, 2017 that includes a list of specified funding objectives, including how to maintain stability of the governing body's contributions to the PSPRS and defining the governing body's funded ratio target under the PSPRS. The governing body is required to post the pension funding policy on its public website.

Provisions:

- 1) Requires, beginning on or before July 1, 2019, each governing body of a PSPRS employer to annually:
 - a) Adopt a pension funding policy for employees who were hired before July 1, 2017; Outlines funding objectives to be included in the policy.
 - b) Formally accept the employer's share of the assets and liabilities under PSPRS based on the PSPRS actuarial valuation report. (§ 1)
- 2) Requires the governing body to post the pension funding policy on their website. (§ 1)

Current Law:

PSPRS was created in order to provide a uniform, consistent and equitable statewide program for public safety personnel who are regularly assigned to hazardous duty and are employed by the state or a political subdivision (A.R.S. § 38-841).

Employers are required to make contributions sufficient to meet the normal cost for members hired before July 1, 2017 plus an amount required to amortize the unfunded accrued liability on a level percent of compensation basis for all employees over a 20-year period, beginning July 1, 2017.

For members hired on or after July 1, 2017, employer contributions are dependent on the employer's participation in the public safety risk pool. Employers in the risk pool must make contributions sufficient to pay 50% of both the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability within the risk pool for all employers attributable to all members in the risk pool. Employers not in the risk pool must make contributions sufficient to pay 50% of the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability for each employer attributable only to those members hired on or after July 1, 2017 (A.R.S. § 38-843).

Final Disposition:

Passed House B&I Committee as amended on January 18, 2018; 6-1-0-1

Passed House Third Read as amended on February 12, 2018; 58-0-1-0-1

Passed Senate FIN Committee on February 28, 2018; 7-0

Passed Senate Third Read on March 28, 2018; 30-0

Signed by Governor on April 3, 2018
Effective Date: August 3, 2018

Cost/Savings Impact:
None expected.

HB2184 Secretary of State; Rulemaking

Sponsor: Coleman

Laws 2018, Chapter 178

Various changes to statutes relating to the SOS. Agencies are required to prepare a notice of proposed rulemaking to make, amend, renumber or repeal a rule, and must follow formatting guidelines prescribed by the SOS. Adds a chapter to the Administrative Procedures Act governing rulemaking exemptions. The SOS is required to prescribe a uniform numbering system and have reasonable discretion to determine the form and style for exempt rules filed with and published by the SOS. Exempt rules must be codified and published in the AAC only as prescribed in statute or session law. The SOS is required to electronically publish a AAC supplement at least once every quarter, and to offer an email service for persons to receive notification when a quarterly supplement is published. Repeals the requirement for the SOS to biennially publish and distribute an official state manual known as the Arizona Blue Book, and transfers any unexpended and unencumbered monies remaining in the Arizona Blue Book Revolving Fund to the GF on the effective date of this legislation. The SOS is authorized to certify under the great seal of the state of Arizona any publicly recorded document filed with the SOS. Also, counties are authorized to terminate a notice of proposed rule or ordinance making at any time and publish the notice of termination on the county's website. Makes various changes to the process of county rule or ordinance making.

Provisions:

- 1) Repeals the requirement that SOS:
 - a) Establish a no trespass public notice list that identifies employers who have established private property rights to their establishment and any real property in the state; and
 - b) Make the list accessible to the public, post the list on the SOS website and provide a copy of the list to every law enforcement agency.
- 2) Requires an agency to prepare and file a notice with the SOS of proposed rulemaking in order to renumber a rule. *Currently, agencies must file notice with the SOS to make, amend or repeal a rule (A.R.S. § 41-1022).*
- 3) Permits any person to petition an agency to amend or repeal a final rule. *Currently, any person may petition an agency to make a final rule or review an existing agency practice that the petitioner alleges constitutes a rule (A.R.S. § 41-1033).*
- 4) Specifies that an agencies response to a person requesting that the agency make, amend or repeal a rule is open to public inspection.
- 5) Requires the SOS to have reasonable discretion to determine the form and style for exempt rules filed with its office and requires the SOS to refuse to accept rules that do not comply with filing requirements, form or style.
- 6) Removes language specifying that books delivered to officers in the state remain the property of the state.

- 7) Repeals the requirement that the SOS biennially publish and distribute the Arizona Blue Book.
- 8) Repeals the Arizona Blue Book Revolving Fund and transfers all unexpended and unencumbered monies in the Fund to the GF.
- 9) Permits the SOS to certify any publicly recorded document with the state seal upon request; permits the SOS to charge a per page copy fee and certified copy fee.
- 10) Removes the requirement that the head of each state and local agency submit a list of all public records in the agency's custody that are not needed and not considered to have sufficient value to warrant their inclusion in established disposal schedules.
- 11) Requires agencies that make a final rule that is exempt from rulemaking requirements to prepare a notice and follow SOS formatting guidelines and prepare required rulemaking exemption notices.
- 12) Requires the AAC to contain the full text of each emergency and expedited rule filed with the SOS and expired rule removed by GRRC.
- 13) Requires the SOS to electronically publish a code supplement each quarter, rather than publish all final rules and exempt rules in loose-leaf form each quarter.
- 14) Specifies that publication of a rule by the SOS constitutes prima facie evidence of the approving of a final, emergency or exempt rule and carries the weight of law.
- 15) Requires the SOS to offer an email service for persons to receive notification of when a quarterly supplement has been published. a. Requires the email service to include a list of published chapters and where they can be posted.
- 16) Removes the requirement that the SOS make the AAC available by subscription and single-copy purchase, and instead requires the SOS to:
 - a) Publish the code for free;
 - b) Establish a commercial use fee for the AAC; and
 - c) Honor any paper subscription in place at the end of FY 2018 until it expires.
- 17) Requires agencies exempt from rulemaking to allow for and accept public comment on any rulemaking.
- 18) Requires exempt rulemaking notices to be published in the AAR pursuant to the specific exemption requirements.
- 19) Requires notices of proposed rulemaking that are prepared by an agency to make, amend, renumber or repeal a rule to follow formatting guidelines prescribed by the SOS.
- 20) Requires an agency's notice of proposed rulemaking to include:

- a) The code chapter and article that is being proposed;
 - b) The proposed or current rule section number; and
 - c) The full text of a new rule and any amendment, renumbering or repeal of a current rule.
(§ 10)
- 21) Requires mailed notices of agency or county rulemaking to be provided by first class mail.
Currently, an agency or county may choose to provide the notification by regular mail, fax or email to each requesting person (A.R.S. §§ 41-1022 & 49-471.04).
 - 22) Removes the requirement that an agency wait at least 30 days after publication of rulemaking notice in the AAR before commencing any proceedings for that rulemaking.
 - 23) Requires an agency to comply with statutory requirements for public comment on proposed rulemaking.
 - 24) Requires a notice of supplemental rulemaking prepared by an agency that makes a substantial change as a result of public comment to be filed with the SOS for publication in the AAR.
 - 25) Removes the requirement that the SOS indelibly mark each book delivered to state officers with the name of the county and officer designation.
 - 26) Requires the SOS to publish an emergency rule and emergency renewal in the AAC.
 - 27) Requires the AG to create a certificate of approval for any emergency rule renewal and file it with the SOS, rather than requiring the agency to file notice of the renewal and required AG approval with the SOS.
 - 28) Requires the SOS, upon expiration of the 180-day effective period of an emergency rule, to remove the rule from the AAC.
 - 29) Stipulates that if a rule has not been made to replace an emergency rule, upon termination of the emergency rule, the rule in place before the emergency is restored.
 - 30) Removes the requirement that the SOS publish notices of county environmental rulemaking and expedited rulemaking in the AAR and instead requires the county to prepare a notice of proposed rule or ordinance making and post it on the county's website. Stipulates that notices of environmental rulemaking must be prepared by the BOS and notices of expedited rule or ordinance making must be prepared by the control officer for that county.
 - 31) Requires the notice of a proposed county rule or ordinance to contain the full text of the proposed rule or ordinance.
 - 32) Requires a county control officer to post the following on the county's website, rather than in the AAR:
 - a) An archive of a rule or ordinance making record;

- b) Notice of meetings with interested parties regarding rule or ordinance making;
 - c) Final notices of county expedited rule or ordinance making;
 - d) Substantive policy statements pertaining to environmental rulemaking; and
 - e) Final notices of county environmental rules and ordinances.
- 33) Requires the SOS to have reasonable discretion to determine the form and style for exempt rules filed with its office and requires the SOS to refuse to accept rules that do not comply with filing requirements, form or style.
- 34) Specifies that exempt rules can only be codified and published in the AAC as provided for in statute or session law.
- 35) Permits a person to petition a county in writing that an existing county agency practice or policy statement constitutes a rule or ordinance.
- 36) Permits a notice of county proposed rule or ordinance making to be terminated at any time during the process and requires the termination notice to be posted on the county's website.
- 37) Requires a county that determines there is a substantial change between a proposed environmental rule or ordinance and the final rule to prepare a notice of supplemental proposed rulemaking.
- 38) Requires the county to accept written statements regarding the preamble of any proposed rule or ordinance.
- 39) Requires any supplemental rule or ordinance to be included in the explanatory statement submitted by a county control officer to the BOS, relating to any county environmental rule or ordinance making proceeding.
- 40) Permits a BOS to extend a rule or ordinance making process by making additional changes to the proposal and submitting them as supplemental notice of proposed rule or ordinance making.
- 41) Requires the BOS to place notice on its meeting agenda before considering the vote on a final or expedited rule or ordinance.
- 42) Stipulates that a BOS may only specify a delayed effective date for adopted rules if the Board determines that good cause exists and that the public interest will not be harmed by the change.
- 43) Requires the county control officer to prepare a preamble to include a summary of arguments for and against expedited environmental rule or ordinances and the county's response to the comments or arguments.
- 44) Requires a county archive of a rule to include meeting minutes submitted to the BOS.

45) Requires a county control officer to post an annual directory summarizing the subject of all currently applicable county environmental rules, ordinances and policy statements.

46) Defines *act, code, published, register* and *rulemaking*.

47) Makes technical and conforming changes.

Current Law:

The SOS is required to prepare and publish the AAC and AAR. The SOS is required to prescribe a uniform numbering system and have reasonable discretion to determine the form and style of rules filed (A.R.S. § 41-1011). The AAC is required to contain the full text of each final rule and exempt rule filed with the SOS. The SOS is required to publish all final rules and exempt rules in loose-leaf form once every quarter (A.R.S. § 41-1012). Additionally, the SOS must electronically publish the AAR each month, which must contain notices of ongoing rulemaking proceedings (A.R.S. § 41-1013).

Each agency is required to establish and maintain a current, public rulemaking docket for each pending rulemaking proceeding. The docket for each rulemaking proceeding must include certain information, including: the subject matter of the proposed rule, the citation to all published notices, the current status of the rule and with whom and where a person can communicate regarding a rule (A.R.S. § 41-1021). Additionally, before any rulemaking, amendment or repeal, an agency must file a notice of the proposed action with the SOS (A.R.S. § 41-1022). After publication of the notice of proposed rulemaking, an agency must allow for 30 days of public comment on the proposed rule. The agency must hold an oral proceeding if one is requested in writing. The agency must provide 30 days' notice of any hearing in the AAR (A.R.S. § 41-1023).

Upon termination of the rulemaking docket, the agency must submit the rule to GRRC and the Administrative Rules Oversight Committee, unless the rule is exempted from rulemaking requirements or an emergency rule, in which case AG approval is required. An agency may not file a final rule with the SOS without approval from GRRC or the AG (A.R.S. § 41-1024). If an agency finds that a rule is necessary as an emergency measure, the rule may be made, amended or repealed without notice requirements and prior review by GRRC, if the rule is first approved by the AG and filed with the SOS. Emergency rules are effective for 180 days and may be renewed for an additional 180 days if certain criteria are met (A.R.S. § 41-1026).

Final Disposition:

Passed House GOV Committee as amended on January 25, 2018; 5-3

Passed House Third Read as amended on February 15, 2018; 53-4-3

Passed Senate GOV Committee on February 28, 2018; 7-0

Passed Senate Third Read as amended on March 13, 2018; 30-0

Passed House Final Read on April 5, 2018; 53-6-1

Signed by Governor on April 11, 2018

Effective Date: August 3, 2018

Cost/Savings Impact:

None expected.

HB2238 Admin Decisions; Review; Scope

Laws 2018, Chapter 180

Sponsor: Farnsworth

In a proceeding to review any final administrative decision of an agency brought by or against the regulated party, the court is required to decide all questions of law, without deference to any previous determination that may have been made on the question by the agency.

Provisions:

- 1) Requires the court, in a proceeding brought by or against a regulated party, to decide on all questions of law without deference to any previous determination by the agency. (§ 1)
- 2) States that court procedures outlined following an evidentiary hearing apply to the judicial review of any agency action authorized by law. (§ 1)
- 3) Directs the court to affirm an agency action from a utilization review appeal (A.R.S. Title 20, Chapter 15, Article 2) unless it is:
 - a) Not supported by substantial evidence;
 - b) Contrary to law;
 - c) Arbitrary and capricious; or
 - d) An abuse of discretion. (§ 1)
- 4) Exempts the Corporation Commission from judicial review procedures for administrative decisions. (§ 1)

Current Law:

A.R.S. Title 41, Chapter 6, Article 10 outlines administrative hearing procedures. A person may file a notice of appeal or request a hearing with an agency on an appealable agency action or contested case. The agency submits a request for a hearing with OAH, which is then scheduled, assigned an ALJ and noticed with affected parties. OAH conducts a hearing and the ALJ issues a decision. The agency head may accept, reject or modify the decision. The agency head's decision is considered the final decision. A party may file for a rehearing or review of the final decision. A petition for review in superior court is also permitted.

A.R.S. Title 12, Chapter 7, Article 6 outlines the procedures for judicial review of final administrative decisions. An affected party files a notice of appeal which is served to all parties. The agency must then file a notice of appearance. A motion to hold an evidentiary hearing may be made by a party. A.R.S. § 12-910 allows the court to affirm, reverse, modify or vacate and remand an agency action, after review of the administrative record and supplementing evidence at an evidentiary hearing. The court must affirm an agency action unless it finds the action is contrary to law, not supported by substantial evidence, arbitrary and capricious or an abuse of discretion. The final decision of the superior court may be appealed to the Arizona Supreme Court.

Final Disposition:

Passed House JPS Committee on March 1, 2018; 6-3

Passed House Third Read as amended on February 14, 2018; 38-21-1

Passed Senate JUD Committee on March 1, 2018; 4-3

Passed Senate Third Read on April 5, 2018; 18-10-2

Signed by Governor on April 11, 2018

Effective Date: August 3, 2018

Cost/Savings Impact:

None expected.

HB2258 Diabetes; Annual Report

Laws 2018, Chapter 94

Sponsor: Carter

Establishes the Diabetes Action Plan Team in the ADHS, and requires the Team to compile a report once every two years that includes the prevalence and costs of diabetes in Arizona, the Arizona Diabetes Program's plan for reducing the incidence of diabetes and improving diabetes care in Arizona, and other specified diabetes-related information. By January 1, 2019 and once every two years thereafter, the ADHS is required to provide the report to the Governor and the Legislature.

Provisions:

- 1) Establishes the Team within ADHS consisting of various state agencies and private entities.
(§ 1)
- 2) Requires the Team to compile a report every two years containing the following information:
 - a) The prevalence of prediabetes and diabetes;
 - b) Diabetes costs to the state;
 - c) The Program's plan for reducing diabetes and improving care; and
 - d) A description of the level of coordination between ADHS and specified groups on activities and the level of communication on dealing with diabetes and its complications.
(§ 1)
- 3) Limits report requirements to information within each agency prior to the general effective date, unless there is diabetes funding that may be used for new research, data or reporting.
(§ 1)
- 4) Requires ADHS to submit the report to the Legislature and the Executive by January 1, 2019 and once every two years thereafter. (§ 1)

Final Disposition:

Passed House Health Committee as amended on February 15, 2018; 9-0

Passed House Third Read as amended on February 20, 2018; 57-2-1

Passed Senate HHS Committee on March 7, 2018; 7-0

Passed Senate Third Read on March 27, 2018; 26-4

Signed by Governor on March 29, 2018

Effective Date: August 3, 2018

Cost/Savings Impact:

The ASRS Director or the Director's Designee is required to serve on the Team to collect and report information regarding diabetes in Arizona.

HB2456 Stadium District; Extension; Rio Nuevo

Laws 2018, Chapter 138

Sponsor: Finchem

The distribution of multipurpose facility transaction privilege tax revenues to a county stadium district authorized by an election will continue until July 1, 2035, instead of July 1, 2025, or until all authorized debt service payments are completed, whichever is later, instead of whichever is earlier. Public monies received by the district may be used for debt service for bonds issued before January 1, 2025, instead of before January 1, 2009, and for contractual obligations incurred by the district before June 1, 2025, instead of before June 1, 2009. On the termination of a county stadium district authorized by an election, the board of directors is required to dispose of the district's real property and improvements according to a specified process. If the property is not conveyed within six months after the board of directors offers it for disposal, the property escheats to the State Land Trust for the benefit of the Permanent State School Fund.

Provisions:

- 1) Continues the distribution of shared revenue to the District until July 1, 2035 or upon the completion of the scheduled debt service, whichever occurs later. (§ 1)
- 2) Authorizes monies paid to the District to be used for:
 - a) Debt service for bonds issued by the district before January 1, 2025; and
 - b) Contractual obligations incurred by the district before June 1, 2025. (§ 2)
- 3) Requires, upon dissolution of the District, the board of directors to dispose of the district's real property and improvements as follows:
 - a) If the district leases the property to a single lessee, the lessee has the first right to acquire the title to the property, at its appraised value and the revenues are to be transferred to the State Treasurer for the purpose of paying unfunded accrued liability for PSPRS.
 - b) If the district leases property to multiple lessees, each lessee has the right to offer a bid to purchase the property at fair market value and the revenues are to be transferred to the State Treasurer for the purpose of paying unfunded accrued liability for PSPRS. If neither of the above occur, the property reverts to the State Land Trust for the benefit of K-12 education. (§ 2)
- 4) Makes technical and conforming changes. (§§ 1, 2)

Additional Information:

The Rio Nuevo Multipurpose Facilities District was formed in 1999 through an IGA by the municipalities of the City of Tucson, the Town of Sahuarita, and the City of South Tucson as a tax-levying public improvement district and a separate legal entity from the City of Tucson. The District receives an incremental portion of state-shared funds derived from TPT, which are collected within District boundaries to be invested in public projects. Expenditure of the funds collected is disbursed and managed by the reconstituted Rio Nuevo Multipurpose Facilities

District Board of Directors who, as of 2010, are appointed by the Governor, President of the Senate, and Speaker of the House of Representatives (Rio Nuevo Multipurpose Facilities District).

Current Law:

The state disburses TPT revenues through state shared revenue to stadium districts to be used for the components for a multipurpose facility that are owned by the District or that are publicly owned to pay for:

- a) Debt service for bonds issued by the District before January 1, 2009;
- b) Contractual obligations incurred by the District before June 1, 2009;
- c) Fiduciary, legal and administrative expenses of the District; and
- d) The design of construction of a hotel and convention center located on the facility site (A.R.S. 48-4204).

TPT disbursements are authorized until the earlier of either July 1, 2025 or until all authorized debt service payments are completed (A.R.S 42-5031).

Final Disposition:

Passed House WM Committee on February 14, 2018; 7-2

Passed House Third Read as amended on February 22, 2018; 38-17-5

Passed Senate COMPS Committee on March 12, 2018; 5-3

Passed Senate Third Read on March 29, 2018; 21-9

Signed by Governor on April 5, 2018

Effective Date: August 3, 2018

Cost/Savings Impact:

None expected.

HB2545 EORP; Cost-of-living Adjustment

Laws 2018, Chapter 140

Sponsor: Livingston

For the EORP, each retired member or survivor of a retired member is eligible to receive a compounding COLA in the base benefit based on the average annual percentage change in the metropolitan Phoenix-Mesa consumer price index, with the immediately preceding year as the base year for making the determination, up to a maximum of two percent of the retired member's or survivor's base benefit annually. In the first year of a member's retirement, the COLA must be prorated based on the date of retirement. The plan actuary is required to include the projected cost of providing the COLA in the calculation of normal cost and accrued liability. Repeals statutes governing EORP benefit increases. Conditionally enacted on the state Constitution being amended, as prescribed in HCR2032, by the voters at the 2018 general election.

Provisions:

- 1) Repeals statutes relating to EORP PBI. (§ 1)
- 2) Establishes a compounding COLA in the base benefit for EORP retired members.
 - a) The COLA amount is based on the average annual percentage change in the Metropolitan Phoenix-Mesa consumer price index with the immediately preceding year as the base year, capped at 2%.
 - b) States the first COLA payment is prorated based on the date of retirement and paid every July 1 in subsequent years. (§ 2)
- 3) Directs the EORP actuary to include the projected cost of providing the COLA in the calculation of normal cost and accrued liability. (§ 2)
- 4) Contains a conditional enactment clause. (§ 3)

Current Law:

Retired EORP members are eligible to receive a permanent increase in the base benefit:

- a) For members hired before January 1, 2012, the amount of the increase is based on excess investment returns that exceed 9%. The maximum amount of benefit increase is 4% (A.R.S. § 38-818).
- b) For members hired on or after January 1, 2012, the amount of the increase is based on excess investment returns that exceed 10.5% with a fund ratio of 60% or more. The maximum amount of benefit increase, which is based on the fund ratio, is between 2% and 4% (A.R.S. § 38-818.01).

Final Disposition:

Passed House B&I Committee as amended on February 12, 2018; 8-0

Passed House Third Read as amended on February 21, 2018; 58-2

Passed Senate FIN Committee on March 21, 2018; 7-0

Passed Senate Third Read on March 29, 2018; 30-0
Signed by Governor on April 5, 2018
Effective Date: August 3, 2018

Cost/Savings Impact:
None expected.

HB2564 Court Fees; EORP; State Contribution

Laws 2018, Chapter 317

Sponsor: Livingston

Statutory fee amounts received by the clerk of the superior court and justices of the peace are increased by 9-16%. Of the monies received from the fees that are not kept by the court pursuant to statute, the county treasurer or justice of the peace is required to transmit 6% to the EORP Fund for the purpose of funding a portion of the employers' contributions. The percentages of the monies that are transmitted to various other funds are all decreased.

Provisions:

- 1) Increases various base fees for the superior court and justice court. (§§ 1, 3)
- 2) Modifies the distribution formulas for superior court and justice court fees by:
 - a) Creating a 6% allocation to EORP for the purposes of funding a portion of the employers' contributions; and
 - b) Reducing existing allocations. (§§ 2, 3)
- 3) Contains immediate effective clause. (§ 4)

Current Law:

The clerk of superior court receives case filing fees for the preparation of copies of papers and records, issuing certificates, subpoena issues in a civil proceeding, or an act in which a fee is not outlined by law (A.R.S. § 12-284). Monies collected from court fees are distributed to various funds as specified in statute (A.R.S. § 12-284.03). The justice of peace receives case filing fees transmitted to the county treasurer for the judicial collection enhancement fund, the alternative dispute resolution fund, EORP, and the county GF. Counties keep and use the filing fees transmitted to improve, maintain, and enhance the ability to manage the money received, improve court automation, improve case processing, and administer justice (A.R.S. § 22-281). Pursuant to A.R.S. § 38-810, monies collected from the Arizona Supreme Court, court of appeals, superior court, and justice court fees are deposited in EORP. According to the JLBC, in FY 2016 and FY 2017 \$8.6 million was received in fees for each year.

Final Disposition:

Passed House B&I Committee as amended on February 12, 2018; 7-1

Passed House Third Read as amended on February 21, 2018; 49-11

Passed Senate JUD Committee on March 22, 2018; 6-0-1

Passed Senate Third Read on May 3, 2018; 21-7-2

Signed by Governor on May 16, 2018

Effective Date: May 16, 2018

Cost/Savings Impact:

None expected.

HCR2032 Public Retirement Systems

Sponsor: Livingston

The 2018 general election ballot is to carry the question of whether to amend the state Constitution to provide that the Constitutional provision prohibiting public retirement system benefits from being diminished or impaired does not prohibit certain adjustments to the CORP as provided in S1442 as enacted by the 53rd Legislature, 1st Regular Session, and does not prohibit certain adjustments to the EORP as provided in H2545. The Legislature requests the SOS return SCR1023, 53rd Legislature, 1st Regular Session, to the Legislature and submit this resolution in lieu of SCR1023.

Provisions:

- 1) Excludes, upon voter approval, the following adjustments to CORP and EORP from the constitutional prohibition of diminishment or impairment of benefits:
 - a) CORP as provided in Senate Bill 1442 enacted by the 53rd Legislature, First Regular Session.
 - b) EORP as provided in House Bill 2545 enacted by the 53rd Legislature, Second Regular Session.
- 2) Requests SOS return Senate Concurrent Resolution 1023, 53rd Legislature, First Regular Session.
- 3) Requires SOS to submit this proposition to the voters at the next general election.

Current Law:

Public retirement systems are funded with contributions and investment earnings using actuarial methods and assumptions. These assets are separate and independent trust funds which must be invested, administered and distributed as determined by law. Membership in a public retirement system is a contractual relationship and benefits are prohibited from being diminished or impaired (Arizona Constitution, Article XXIX, § 1). The next general election will be held on November 6, 2018.

Final Disposition:

Passed House B&I Committee as amended on February 12, 2018; 8-0

Passed House Third Read on February 21, 2018; 57-0-3

Passed Senate FIN Committee on March 21, 2018; 7-0

Passed Senate Third Read on March 28, 2018; 30-0

Transmitted to SOS on April 2, 2018

Cost/Savings Impact:

None expected.

SB1054 ASRS; Nonparticipating Employers*

Laws 2018, Chapter 210

Sponsor: Fann

The list of ASRS nonparticipating employers is expanded to include an employer that dissolves and an employer that is no longer enrolling new employees in ASRS or no longer contributing to ASRS on behalf of current employees due to legislative action or due to a reduction in the number of actively contributing employees by 30 percent or more over a 3-year period or a reduction in the number of actively contributing employees by 50 percent or more over any period of time, based on the number of contributing employees as of the effective date of this legislation. Does not apply to the state. For any nonparticipating employer, ASRS is required to allocate an actuarial accrued liability and a designated asset amount to the nonparticipating employer's separate fund as of the nonparticipating date, and a calculation for the amount is specified. The nonparticipating employer and its employees who are enrolled in ASRS are required to continue to have contribution requirements to the separate fund, and a calculation for the contributions is specified. The ASRS actuary is required to determine the actuarial assumptions used to determine the contribution requirements for the nonparticipating employer.

Provisions:

- 1) Requires ASRS to establish a separate fund for an employer, other than a charter school, that is either:
 - a) No longer participating as a result of specified conditions; or
 - b) Based on the number of contributing employees, considered to employ a minimum of 50 employees as of 1 year preceding the nonparticipation date and is no longer participating as a result of a reduction in the number of contributing employees under specified circumstances, unless the employee is participating in EORP, PSPRS, CORP, or an optional retirement plan as established by a community college board. Specifies the provision regarding contributing employees applies to the state if the reduction is the result of hiring one or more leased employees. (§ 1)
- 2) Directs ASRS to allocate an actuarial accrued liability and a designated asset amount to the nonparticipating employer's separate fund as of the nonparticipation date. Outlines the method for calculating the liability and asset amount. (§ 1)
- 3) Specifies all monies and securities transferred to an employer's separate fund must be credited to that fund. Requires a record of the market value and the cost value of the transferred contributions to be maintained. (§ 1)
- 4) Asserts ASRS has the authority to make all decisions regarding a separate fund. (§ 1)
- 5) Requires the separate fund to be adjusted for:
 - a) All contributions made by the employee or employer;
 - b) Any benefits paid to a nonparticipating employer's members and survivors;

- c) Investment gains or losses; and
 - d) Administration expenses. (§ 1)
- 6) Specifies a nonparticipating employer and the employees who are enrolled in ASRS have contribution requirements.
 - a) Outlines the method for calculating the contributions.
 - b) Directs the ASRS actuary to determine the actuarial assumptions used for the calculations.
 - c) Prohibits the contributions from being determined as a percentage of compensation. (§ 1)
 - 7) Requires a nonparticipating employer to certify on each payroll the amount to be contributed and remit such amount to ASRS. a. Amounts not remitted are invoiced to the employer and must be paid within the same FY as invoiced. (§ 1)
 - 8) Specifies how certain employees are to be considered for the purposes of calculating liability. (§ 1)
 - 9) Prohibits an employer from participating in ASRS after the employer's nonparticipation date. (§ 1)
 - 10) Exempts an employer whose existence, prior to January 1, 2013, was terminated by legislative action or who became a nonparticipating employer from the nonparticipating employer contribution requirements. (§ 1)
 - 11) Modifies certain definitions. (§ 1)

Current Law:

Pursuant to A.R.S. § 38-751, the ASRS allocates liability to an employer that becomes a nonparticipating employer if nonparticipation is based on specified conditions. The ASRS must determine the schedule and method of payment for the liability. Statute defines the liability allocated to an employer as the sum of the following:

- 1) The plan employer actuarial accrued liability multiplied by the plan total deficit percentage.
- 2) The LTD program employer actuarial accrued liability multiplied by the LTD program total deficit percentage.

Final Disposition:

Passed Senate FIN Committee as amended on February 14, 2018; 6-1

Passed Senate Third Read on February 28, 2018; 29-1

Passed House B&I Committee on March 12, 2018; 7-1

Passed House Third Read on April 5, 2018; 59-0-1

Signed by the Governor on April 12, 2018

Effective date: August 3, 2018

Cost/Savings Impact:

In recent legislative sessions there have been discussions from the universities, specifically Arizona State University, and other employers about their desire to withdraw from the ASRS. Unlike some state plans, Arizona law does not permit employers to withdraw other than through an act of legislation. In the event a large employer departs from the ASRS, tens to hundreds of millions of dollars' worth of liabilities would be transferred to employees and members remaining in the ASRS. This bill requires the departing employer to pay for their liabilities rather than transferring the cost. The ASRS may need to make procedural and administrative changes in order to enforce this law.

SB1251 PSPRS; CORP; Modifications

Laws 2018, Chapter 42

Sponsor: Farnsworth

Various changes relating to the PSPRS and the CORP. For the purpose of the PSPRS Defined Contribution Retirement Plan, a "participant" (defined) is permitted to make a rollover contribution from a "qualified plan" or an "IRA" (both defined) that must be deposited in a separate rollover account and made immediately available for the participant to either withdraw all or any portion of the lump sum deposit or directly transfer all or any portion of the lump sum deposit to an eligible retirement plan. If a participant in the PSPRS Defined Contribution Retirement Plan is subsequently covered by the federal old age and survivors insurance system, the participant and his/her employer cannot make any contributions on his/her behalf during the period s/he is covered by the federal old age and survivors insurance system. Retroactive to January 1, 2018, the deadline for an Indian tribe to opt out of the public safety employer risk pool is extended one year to December 31, 2018. If an employee hired on or after July 1, 2018 who is eligible to participate in CORP or PSPRS depending on the employee's election is killed in the line of duty or dies from injuries suffered in the line of duty during the first 90 days of employment, the employee is considered as having been enrolled in CORP and the surviving spouse of the deceased employee is eligible for survivor benefits.

Provisions:

- 1) Clarifies an employer's requirement to make contributions on behalf of an employee participating in the PSPRS Define Contribution Plan is based on the employee's Social Security coverage. (§§ 1, 10)
- 2) Extends the time for which Indian tribes may opt out of participating in the public safety employer risk pool to January 1, 2019. (§ 2) Applies the opt out extension for Indian tribes retroactively to January 1, 2018. (§ 15)
- 3) Clarifies a PSPRS member who is subsequently reemployed is not required to deposit monies that have been withdrawn from a severance refund in order to be subject to the benefits and duties in effect for specified situations. (§ 3)
- 4) Provides full vesting for participants in the PSPRS Defined Contribution Plan who are eligible for an accidental or disability pension. (§ 8)
- 5) Stipulates a probation or surveillance officer who, within the first 90 days of employment, dies in the line of duty is considered to have been enrolled in CORP and the surviving spouse is eligible for survivor benefits. (§ 11)
- 6) Allows a current or retired member of a PSPRS or CORP employer to rollover contributions from a qualified plan or an IRA into a separate rollover account under the PSPRS Define Contribution Plan. Monies in the separate rollover account may be withdrawn or transferred to an eligible retirement plan. (§ 9)
- 7) Directs the lump sum payment from a reverse DROP be deposited into a separate rollover account under the PSPRS Define Contribution Plan. Allows the member to withdraw all or

any portion of the lump sum or transfer all or any portion to an eligible retirement plan. (§§ 12, 13)

- 8) Adds the local board of the Judiciary may specify a designated position as a nondesignated position, provided certain conditions are met. (§ 14)
- 9) Clarifies that the position of a deputy administrator is equivalent to the position of an assistant administrator. (§ 4)
- 10) Makes conforming changes. (§§ 4, 5, 6, 7, 11)
- 11) Contains a retroactivity clause. (§ 15)
- 12) Contains a conditional enactment clause. (§ 16)

Current Law:

PSPRS was created for the purpose of providing a uniform, consistent and equitable statewide program for public safety personnel who are regularly assigned to hazardous duty. The Board governs and administers the retirement system for police and firefighters. Additionally, the Board administers CORP (A.R.S Title 38, Chapter 5).

CORP is a multi-employer public employee retirement plan which provides benefits for prison and jail employees of certain state, county and local governments (A.R.S. Title 38, Chapter 5, Article 6). A member may not borrow from, take a loan against or remove contributions from the member's account before termination of membership in CORP or receipt of a pension (A.R.S. § 38-891).

Final Disposition:

Passed Senate FIN Committee on January 31, 2018; 6-0-1
Passed Senate Rules Committee as amended on February 5, 2018
Passed Senate Third Read on February 12, 2018; 29-0-1
Passed House B&I Committee on February 26, 2018; 8-0
Passed House Third Read on March 15, 2018; 57-0-3
Signed by the Governor on March 20, 2018

Effective date: Conditionally retroactive

Cost/Savings Impact:

None expected.

SB1273 GRRC; Review; Licensing Requirements

Laws 2018, Chapter 337

Sponsor: Petersen

A person is permitted to petition GRRC to request a review of an existing agency practice, substantive policy statement, final rule or licensing requirement that is not specifically authorized by Title 32 (Professions and Occupations) statutes, based on the person's belief that the practice, policy, rule or requirement is unduly burdensome or is not necessary for public health, safety or welfare. If GRRC determines that the practice, policy, rule or requirement applies to a profession for which the median wage in Arizona does not exceed 200 percent of the federal poverty guidelines for a family of four, GRRC is required to review the practice, policy, rule or requirement. If GRRC determines that the practice, policy, rule or requirement is unduly burdensome or is not necessary for public health, safety or welfare and meets the wage requirement, GRRC is authorized to modify, revise or declare void any practice, policy, rule or licensing requirement. Also, in a contested case, opportunity is required to be afforded all parties to participate in a settlement conference or mediation unless both parties or the hearing officer decline.

Provisions:

GRRC Review (§ 1)

- 1) Permits a person to petition GRRC to request a review of an existing agency practice, substantive policy statement, final rule or regulatory licensing requirement not authorized by statute based on their belief that it is unduly burdensome or not necessary to fulfill a public health, safety or welfare concern.
- 2) Requires GRRC to review the practice, statement, rule or regulatory licensing requirement if it is determined to apply to a profession for which the average wage is no more than 200% of the Federal Poverty Guidelines for a family of four.
- 3) Permits GRRC to modify, revise or void any practice, statement, rule or regulatory licensing requirement that is determined to:
 - a) Be unduly burdensome or unnecessary to fulfill a public health, safety or welfare concern; and
 - b) Apply to a profession for which the average wage is no more than 200% of the Federal Poverty Guidelines for a family of four.
- 4) Excludes abortion clinics and professions related to abortion from the provisions of this Act.

Adjudicative Proceedings (§ 2)

- 5) Requires parties in adjudicative cases to be afforded an opportunity to participate in a settlement conference or mediation, unless both parties or the hearing officer decline.
- 6) Allows parties to seek disposition of the case by motion if there is no genuine issue of material fact.

Miscellaneous (§§ 1, 2)

7) Makes technical and conforming changes.

Current Law:

GRRC Review

A person may appeal an agency's decision regarding whether an existing agency practice or substantive policy statement constitutes a rule within 30 days of written notice of the decision. The GRRC chair must place the appeal on the agenda for the next meeting if at least three members make such a request within two weeks after the appeal is filed.

A person may petition GRRC to request review of a final rule based on the belief that the rule was not made in compliance with the rulemaking requirements. If GRRC receives information indicating that an existing agency practice or substantive policy statement may constitute a rule or that a final rule was not made in compliance with the rulemaking requirements, and at least four GRRC members request that the matter be heard in a public meeting, GRRC must conduct a review. GRRC is required to notify the agency that the matter has been placed on an agenda within 10 days of receipt of the fourth request and must make a determination within 90 days. The agency is required to submit a statement addressing the matter within 30 days of notice from GRRC. An agency practice, substantive policy statement or final rule remains in effect while under GRRC consideration. If GRRC determines the agency practice or substantive policy statement constitutes a rule or that a final rule was not made in compliance with the rulemaking requirements, the practice, statement or rule is considered void (A.R.S. § 41-1033).

Adjudicative Proceedings

A.R.S. Title 41, Chapter 6, Article 6 outlines the adjudicative hearing procedures for contested cases of agencies exempt from the administrative hearing process. All parties must be afforded an opportunity for a hearing after reasonable notice. The notice must include a statement of all matters asserted with an opportunity for all parties to respond and present evidence and arguments on all involved issues. A hearing may be conducted in an informal manner without adherence to the rules of evidence in a judicial proceeding at any place determined by the agency, except as otherwise provided. All parties have a right to 1) council, 2) submit evidence in an open hearing; and 3) cross-examination. A final decision or order must be in writing or stated in the record. The final decision must include findings of fact and conclusions of law. An agency is required to provide an opportunity for a rehearing or review of the decision before the decision becomes final.

Additional Information

The 2018 Federal Poverty Guidelines can be found on the United States Department of Health and Human Services website.

Final Disposition:

Passed Senate GOV Committee as amended on February 7, 2018; 4-3

Passed Senate Third Read on February 28, 2018; 19-11

Passed House MVRA Committee on March 19, 2018; 5-4

Passed House Third Read as amended on April 18, 2018; 33-27

Passed Senate Final Read on May 2, 2018; 21-9
Signed by the Governor on May 16, 2018
Effective date: August 3, 2018

Cost/Savings Impact:
None expected.

SB1274 Public Monies; Recovery; Illegal Payments

Laws 2018, Chapter 253

Sponsor: Petersen

The Attorney General is authorized to bring an action to recover illegally paid public monies against any person who received the illegal payment, the public body or public officer acting in his/her official capacity who ordered or caused the illegal payment, or the public official, employee or agent who ordered or caused the illegal payment. A public official, employee or agent of the state, a political subdivision, or a budget unit who is charged with collecting, receiving, safekeeping, transferring or disbursing public monies may be held personally liable for an illegal payment of public monies. A public official, employee or agent of the state, a political subdivision, or a budget unit who is responsible for disbursing, collecting, receiving, safekeeping or transferring public monies pursuant to a warrant or other form of claim that does not originate from the public official, employee or agent making the disbursement cannot be held personally liable for illegal payments made pursuant to warrants or claims unless the public official, employee or agent knew or should have known that a warrant or other claim would result in an illegal payment of public monies. An action must be brought within five years after the date an illegal payment was ordered.

Provisions:

County Attorney

- 1) Permits the County Attorney to bring an action against a county or school district officer, employee or agent to enjoin the illegal payment of public monies or to recover illegally paid public monies. (§ 1) Currently, the County Attorney may only bring an action against the BOS (A.R.S. § 11-641).
- 2) Prohibits a county or school district officer, employee or agent, who disburses public monies pursuant to a warrant or claim, from being held liable for an illegal payment unless that individual knew or should have known that the warrant or claim would result in an illegal payment. (§ 1) Applies this prohibition to a public official, employee, budget unit or agent of the state or any of its political subdivisions. (§ 3)

Attorney General

- 3) Permits the AG to bring an action to recover illegally paid public monies against:
 - a) Any person who received the illegal payment;
 - b) The public body, officer or supervisor of the person who ordered or caused the illegal payment; or
 - c) The public official, employee or agent who ordered or caused the illegal payment. (§ 3)
- 4) Specifies that recovered public monies of a political subdivision must be paid back to the political subdivision. (§ 3)

- 5) Requires an action by the AG to be brought within five years after the illegal payment was ordered. (§ 3)
- 6) Specifies that an action to recover illegally paid public monies is subject to the statutory requirements regarding actions against public entities or employees. (§ 3) Title 12, Chapter 7, Article 2 outlines requirements for actions against public entities or employees.
- 7) Specifies that an action to recover illegally paid monies against any person who received the illegal payment or the public official, employee or agent who ordered or caused the illegal payment may only be brought by the AG. (§ 6)
- 8) Allows a taxpayer to bring an action against a public body, officer or supervisor of the person who ordered or caused an illegal payment if the AG fails to bring an action within 60 days of a written request.
 - a) Specifies that a request regarding a political subdivision may only be made by a taxpayer of that political subdivision.
 - b) Specifies that a request regarding a county may only be submitted 21 days after a request is made to the County Attorney. (§ 6)
- 9) Specifies that the person bringing an action must *both* prosecute the action with diligence and finality *and* pay all damages sustained and costs incurred, including attorney fees awarded to the defendant. (§ 4) Currently, statute specifies the person must prosecute the action with diligence and finality or pay damages sustained and costs incurred (A.R.S. § 35-213).
- 10) Permits the court to award the prevailing party costs and reasonable attorney fees. (§ 4) *Currently, statute specifies that if the taxpayer prevails, the court is required to award the taxpayer costs and attorney fees (A.R.S. § 35-213).*
- 11) Allows a public official, employee or agent charged with collecting, receiving, safekeeping, transferring or disbursing of public monies to be held personally liable for an illegal payment of public monies. (§ 3)

Miscellaneous

- 12) Expands the definition of *public monies* to include all monies coming into the lawful possession, custody or control of a tax-supported political subdivision or any of its officers, employees or agents. (§ 3)
- 13) Makes technical and conforming changes. (§§ 1-4)

Current Law:

If a BOS orders any monies to be paid from the county treasury without the authority of law, the BOS and party in whose favor the order is made are jointly and severally liable for the monies with interest at the legal rate, and 20% additional on the principal amount. The County Attorney may bring an action against the BOS to enjoin the payment of the monies or to recover the monies (A.R.S. § 11- 641). If the County Attorney fails to bring an action within 20 days after

written request, any taxpayer of the county is permitted to bring an action in their own name and own expense (A.R.S. § 11-642).

Additionally, the AG may bring an action to enjoin the illegal payment of public monies or, if the monies have been paid, to recover the monies plus 20% of that amount together with interest and costs, including attorney fees (A.R.S. § 35-212). If the AG fails to bring an action within 60 after written request, a taxpayer is permitted to bring an action in their own name and at their own expense (A.R.S. § 35-213).

Public monies include all monies coming into the lawful possession, custody or control of state agencies, boards, commissions, departments or a state officer, employee or agent, irrespective of the source or manner in which the monies are received (A.R.S. § 35-212).

Final Disposition:

Passed Senate GOV Committee as amended on February 7, 2018; 7-0

Passed Senate JUD Committee on February 15, 2018; 6-1

Passed Senate Third Read on February 21, 2018; 30-0

Passed House GOV Committee as amended on March 15, 2018; 7-0-0-1

Passed House Third Read on April 9, 2018; 55-1-4

Passed Senate Final Read on April 11, 2018; 30-0

Signed by the Governor on April 17, 2018

Effective date: August 3, 2018

Cost/Savings Impact:

None expected.

SB1296 Government Communications; Emergency Response Interpreters

Laws 2018, Chapter 339

Sponsor: Bowie

The state, counties and municipalities are each required to take reasonable steps to ensure that its communications with persons with disabilities, including online communications and emergency communications, are equally as effective as its communications with persons without disabilities. The state, counties and municipalities are each required to provide auxiliary aids and services when needed to communicate effectively with persons with communication disabilities. The state, counties and municipalities are each required to establish a protocol to take reasonable steps to secure a licensed interpreter to interpret emergency communications that are presented live to the media for broadcast or delivered through a live online communication, including an official government statement or press conference relating to an emergency situation. Does not prevent the state, a county or a municipality from communicating to the public during an emergency situation if an interpreter is unavailable.

Provisions:

- 1) Requires the state, cities, towns and counties to take reasonable steps to ensure that:
 - a) Its communications with persons with disabilities, including online and emergency communications, are equally as effective as those to persons without disabilities; and
 - b) Persons with disabilities are able to communicate with, receive information from and convey information to the jurisdiction. (§§ 1, 2, 3)
- 2) Requires the state, cities, towns and counties to:
 - a) Provide for auxiliary aids and services when needed to communicate with persons with certain disabilities; and
 - b) Establish a protocol to take reasonable steps to secure a licensed interpreter for emergency communications that are presented live to the media for broadcast or through a live online communication. Requires preference to be given to interpreters who are certified through DEMA's emergency response interpreter credentialing program. (§§ 1, 2, 3)
- 3) Specifies that these requirements do not prevent the jurisdiction from communicating to the public during an emergency if an interpreter is unavailable. (§§ 1, 2, 3)

Current Law:

A person is prohibited from practicing as an interpreter for the deaf and hard of hearing, except in certain circumstances, without a license issued by the Commission for the Deaf and Hard of Hearing (A.R.S. § 36-1971). In order to receive a license, a person must submit an application to the Commission and be found to have completed education, examination and work history requirements for licensure (A.R.S. § 36-1973).

Additional Information:

The ADA prohibits a qualified individual with a disability from being excluded from participation in or being denied the benefit of services, programs or activities of a public entity (including state and local governments) due to their disability (28 C.F.R. § 35.130). A public entity is required to take appropriate steps to ensure that communications with applicants, participants, members of the public and companions with disabilities are as effective as those with others. Additionally, a public entity must furnish appropriate auxiliary aids and services when necessary to afford qualified individuals with disabilities an equal opportunity to participate in and enjoy the benefits of a service, program or activity of a public entity. A public entity is prohibited from relying on an adult accompanying an individual with a disability to interpret or facilitate communication except in an emergency situation involving an imminent threat to the safety of an individual or the public where there is no interpreter available (28 C.F.R. § 35-160).

Final Disposition:

Passed Senate GOV Committee as amended on February 14, 2018; 7-0

Passed Senate Third Read as amended on March 14, 2018; 30-0

Passed House GOV Committee on March 22, 2018; 8-0

Passed House Third Read on May 4, 2018; 58-2

Signed by the Governor on May 16, 2018

Effective date: August 3, 2018

Cost/Savings Impact:

None expected.

SB1478 EORP; Employer Contributions

Laws 2018, Chapter 343

Sponsor: Fann

Beginning July 1, 2018, instead of July 1, 2044, each EORP employer is required to make contributions on a level percent of compensation basis for all employees in an amount sufficient under the actuarial valuation to meet both the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability over a closed period of at least 20 and not more than 30 years. The previous employer contribution rate of 23.5 percent of compensation is deleted.

Provisions:

- 1) Removes the employer contribution rate of 23.5%. (§ 1)
- 2) Requires the employer contribution rate, beginning July 1, 2018, to be an actuarial determined amount sufficient to meet both the normal cost plus the unfunded accrued liability amortized over a closed period of at least 20 years, but not more than 30 years. (§ 1)
- 3) Asserts an employer's contribution to EORP in combination with member contributions may not be less than the actuarially determined normal cost for that FY. (§ 1)
- 4) Removes language regarding employer contribution rates beginning FY45. (§ 1)
- 5) Contains an emergency clause. (§ 2)

Current Law:

Established in 1985, EORP is a cost sharing multiple-employer public retirement plan established by Title 38, Chapter 5, Article 3 to provide benefits for elected officials and judges of certain state, county and local governments. The PSPRS Board of Trustees administers EORP. Each member is required to contribute 13% of compensation to EORP. Beginning January 1, 2014 and continuing for 30 years, employer contributions equal 23.5% of aggregate payroll. Aggregate payroll is on behalf of active members in EORP and active members in EODCRS, and active members in ASRS who opt-out of EODCRS because they had money on account with ASRS.

The employer contributions are used to pay for: 1) EORP Defined Benefits = Employer Normal Cost plus an amount to amortize the unfunded accrued liability; 2) EODCRS Defined Contribution = 6% of pay for those electing EODCRS; and 3) ASRS Defined Benefits = Employer's contribution amount. Additionally, from FY14 through FY43, the sum of \$5,000,000 is appropriated in each FY from the State GF to EORP to supplement the normal cost plus an amount to amortize the unfunded accrued liability (A.R.S. § 38-810). In 2013, the Legislature closed EORP to new members and created EODCRS. EODCRS members contribute 8% of compensation to an annuity account annually (A.R.S. § 38-833). According to PSPRS's Actuarial Valuation (June 2017), EORP is currently 30.7% funded.

Final Disposition:

Passed Senate FIN Committee on February 7, 2018; 7-0

Passed Senate Third Read on February 15, 2018; 29-0-1
Passed House APPROP Committee as amended on March 28, 2018; 13-0
Passed House Third Read on May 3, 2018; 57-3
Passed Senate Final Read on May 3, 2018; 26-2-2-0-0-E
Signed by the Governor w/ emergency on May 16, 2018
Effective date: May 16, 2018

Cost/Savings Impact:

None expected.

SB1524 (Substitute Bill: HB2667) Budget Procedures; BRB; 2018-19

Laws 2018, Chapter 279

Sponsor: Yarbrough

Makes various changes that affect the budget across agencies. Allows appropriations for all budget units, instead of only those listed as annual budget units, to be limited to one FY. Requires any unrestricted federal monies received by Arizona in FY2017-18 to be deposited in the GF. Increases the Capital Outlay Stabilization Fund rent rate to \$16.08/square foot for office space, from \$13.08/square foot, and to \$5.79/square foot for storage space, from \$4.74/square foot. Retroactive to July 1, 2018, the statutory termination date of the JLAC is extended eight years, to July 1, 2026. The JLBC is required to approve the placement of a light rail station in the governmental mall, and must approve or reject the placement within 120 days after submission of a contract or agreement for the placement. Establishes the Capitol Mall Consolidation Fund, to be administered by the ADOA and used for building renewal and renovations of state-owned buildings. Repeals the Governmental Mall Commission and transfers Commission duties to ADOA. Proceeds for the sale of specified state buildings in FY2018-19 must be deposited in the Fund. The Department of Transportation is required to provide one special license plate, instead of two, for a vehicle. For FY2018-19, FY2019-20, and FY2020-21, the Legislature is not required to appropriate monies to or transfer monies from the Budget Stabilization Fund.

Provisions:

Arizona Department of Administration (ADOA)

- 1) Requires ADOA to annually collect a report from each budget unit that contains the number of FTE's and the total amount of salaries for each budget unit for the previous FY, which must be delineated by retirement system, employee tier and fund source. Requires ADOA to annually submit this information to JLBC and OSPB by October 1. (§ 27)
- 2) Requires the Director of ADOA to establish a separate subaccount in the Automation Projects Fund for each agency that implements, upgrades or maintains automation and information technology projects.
 - a) Specifies that monies in each subaccount are subject to Legislative appropriation.
 - b) Prohibits monies from being transferred between agency subaccounts. (§ 28)
- 3) Requires the Automation Projects Fund expenditure plan prepared by ADOA to include the project cost, deliverables, timeline for completion and method of procurement. (§ 28)
- 4) Establishes the Capitol Mall Consolidation Fund, consisting of Legislative appropriated monies and administered by ADOA.
 - a) Requires monies in the Fund to be used for building renewal and renovations of state-owned buildings.
 - b) Exempts Fund monies from lapsing. (§ 31)

- 5) Requires the Director of ADOA to submit an expenditure plan for review by the Joint Committee on Capitol Review before spending in Capitol Mall Consolidation Fund monies. (§ 31)
- 6) Requires proceeds from the sale of three specified state buildings and land sales to be deposited in the Capitol Mall Consolidation Fund in FY 2019. (§ 44)
- 7) Defines *budget unit* and *employee tier*. (§ 27)

Governmental Mall

- 8) Repeals the Legislative Governmental Mall Commission and transfers the Commission's powers and duties to ADOA, including authority relating to the construction of monuments and memorials and development within the governmental mall. (§§ 33-36)
- 9) Requires a political subdivision to obtain written approval by the Director of ADOA, rather than the Governmental Mall Commission, before authorizing development or awarding construction contracts within the governmental mall. (§ 10)
- 10) Requires ADOA to submit the State Monument and Memorial annual report to JLBC, rather than the Governmental Mall Commission. (§ 37) Requires JLBC to approve any proposed contract or agreement by ADOA with a city or regional public transportation authority for the placement of a light rail station in the governmental mall. Requires approval or rejection to occur within 120 days of submission. (§ 30)

Annual & Biennial Budget Units

- 11) Requires specified budgeting requirements to be performed annually for *all* budget units, rather than on a biennial basis for specified state departments, commissions, boards, institutions or agencies. (§§ 11-16)
- 12) Removes references to *annual budget units* and *biennial budget units*, and instead requires the following to be performed each year for every budget unit:
 - a) The submission by the Governor to the Legislature of:
 - i) A budget containing a complete plan of expenditure and all monies and revenues estimated to be available for budget units; and
 - ii) An explanation of all budget unit estimates and recommendations for proposed legislation that the Governor deems necessary to provide sufficient revenues.
 - b) The submission by the administrative head of each budget unit to the Governor of:
 - i) Estimates of a budget unit's financial requirements and receipts; and
 - ii) Performance measures and budgetary data for the prior, current and ensuing FY relating to the operating plan for all programs within the state budget.

c) The preparation and revision by the Governor of a tentative budget report for the next FY for each budget unit. (§§ 9, 11-16)

13) Requires the format of appropriations for the support and maintenance of state departments and institutions to be made for each FY for all budget units. (§ 17) Currently, the format of appropriations must be made for each FY for annual budget units and for two FYs for all biennial budget units, itemized separately for each year (A.R.S. § 35-121).

Arizona Department of Transportation (ADOT)

14) Requires ADOT to provide a single additional license plate, rather than up to two additional plates, for any vehicle with a special license plate. Requires the Director of ADOT to establish a fee in rule for additional license plates. (§ 3)

15) Requires a person to pay a \$25 fee for each original license plate, rather than each pair of original license plates. (§ 4)

16) Removes the requirement that certain fees be paid for *each pair* of original former POW license plates, purple heard medical recipient license plates, Pearl Harbor survivor license plates and historic value license plates, and instead requires the fees to be paid on only the original plate. (§§ 5-8)

Miscellaneous Funds

17) Increases the pro rata share contributed into the Information Technology Fund by all budget units and the Legislative and Judicial branches from .20% of total payroll to .30% of total payroll. (§ 2)

18) Increases the Capital Outlay Stabilization Fund rental rates for state owned buildings in FY 2019 to \$16.08 per square foot for office space and \$5.79 per square foot for storage space. (§ 39) Laws 2017, Chapter 307 set the rates at \$13.08 per square foot for office space and \$4.74 per square foot for storage space.

19) Repeals the Pipeline Safety Revolving Fund and transfers all unexpended and unencumbered monies remaining in the Fund to the GF. (§ 26)

20) Permits monies in the Personnel Division Fund to be appropriated by the Legislature for the Governor's Office of Equal Opportunity. (§ 29) Currently, these monies may be appropriated by the Legislature for the state personnel board or the personnel division of the Department (A.R.S. § 41-750)

21) Continues to require any unrestricted federal monies received by the state in FY 2019 to be deposited in the GF and used to pay for essential governmental services. (§ 38)

22) Permits the SOS to use FY 2019 appropriations from the Data Processing Acquisition Fund and the Record Services Fund for election services. (§ 40)

- 23) Permits the Arizona Department of Insurance to use monies in the Assessment Fund for Voluntary Plans in FY's 2019 and 2020 to pay for the cost of administering the out-of-network claim dispute resolution process. (§ 41)
- 24) Permits the Arizona Department of Revenue to use its FY 2019 appropriation from the Liability Setoff Program Revolving Fund for general operating expenses. (§ 42)
- 25) Continues to assert that the Legislature is not required appropriate monies to or transfer monies from the Budget Stabilization Fund in FY's 2019, 2020 or 2021. (§ 43)

Miscellaneous

- 26) Requires the Information Technology Authorization Committee to approve or disapprove any proposed IT project involving *multiple* budget units if the collective project development cost is expected to exceed \$1,000,000. (§ 1) Currently, the Committee must approve or disapprove proposed IT projects that exceed \$1,000,000 for any individual budget unit (A.R.S. § 18-121).
- 27) Requires the following information relating to state retirement systems to be reported by December 1 of each year, rather than December 15th or 31st:
 - a) The ASRS, EORP, PSPRS and CORP contribution rates for the ensuing FY;
 - b) The ASRS unfunded actuarial accrued liability, funded status based on the actuarial and market value of assets, the annualized rate of return and 10-year rate of return as of June 30 of the previous FY;
 - c) The status of EODCRS and PSPDC;
 - d) A detailed report of the operation and investment performance of the EODCRS disability program that includes the contribution rate for the ensuing FY; and
 - e) The shared cost structure of employees and employers, funding status and rate of return for PSPRS. (§§ 18-25)
- 28) Requires OSPB to transmit budget request forms to budget units by July 1, 2018 for the ensuing FY. (§ 45) Contains a retroactivity clause. (§ 46) Currently, the Governor must transmit budget forms to the administrative head of each agency by June 1 (A.R.S. § 35-112).
- 29) Continues the Joint Legislative Audit Committee until July 1, 2026. (§ 32)
- 30) Makes technical and conforming changes. (§§ 1-3, 5-8, 10-15, 17, 19-23, 29, 30, 32, 34-36)

Current Law:

Annual vs. Biennial Budget Units

Appropriations for the support and maintenance of state departments and institutions are required to be made each FY for *annual budget units* and for two FYs for *biennial budget units*, which must be itemized separately for each FY (A.R.S. § 35-121). Annual budget units include 15 of

the largest state agencies and institutions and biennial budget units include all other departments, commissions, boards, institutions or agencies of the state that receive, expend or disperse state funds or incur obligations against the state (A.R.S. § 35-101). Within five days the Legislature convening its session, the Governor is required to submit a budget containing a complete plan of expenditures and an explanation of the basis of the estimates and recommendations as to proposed legislation that the Governor deems necessary to provide revenues to meet the proposed expenditures. (A.R.S. § 35-111). These budgets must be submitted on an annual or biennial basis, depending upon the type of budget unit. Additionally, the head of each budget unit is required to submit estimates of the financial requirements and receipts of the budget unit on an annual or biennial basis (depending upon the type of budget unit) by September 1 (A.R.S. § 35-113).

Legislative Governmental Mall Commission

The Legislative Governmental Mall Commission is a 10-member Commission consisting of appointees by the Governor, Legislature, Maricopa County and Phoenix, the Director of ADOA and the Chairman of the Historical Advisory Commission. The Commission is required to develop and maintain a long-range general plan, review all planning activities, and approve or disapprove requests for permission to develop structures and award construction contracts within the governmental mall. Additionally, the Commission is charged with approving or disapproving the final design, dimensions and location of monuments and memorials within the mall (A.R.S. §§ 41-1361, 41-1362 & 41-1363). Political subdivisions are prohibited from authorizing development or awarding contracts for construction within the governmental mall without approval by the Commission (A.R.S. § 34-225).

Final Disposition:

Passed Senate APPROP Committee on May 1, 2018; 6-4

Passed House APPROP Committee on May 1, 2018; 7-5-0-2

Passed Senate Third Read as amended on May 2, 2018; 16-13-1

Passed House Third Read on May 3, 2018; 33-26-1

Signed by the Governor on May 3, 2018

Effective date: August 3, 2018

Cost/Savings Impact:

The ASRS is expected to set and report the new contribution rates by December 1 each year. This will require the ASRS actuary to present information at the October Board meeting in order for the Board to set the new contribution rates for the upcoming FY by the new deadline.

Bills Failing to Pass

HB2004 ASRS; Waiting Period; Repeal

Sponsor: Livingston

Statute requiring any state employee initially hired on or after July 20, 2011 to wait until the 27th week of employment to become a member of the ASRS or the ASRS LTD Program would have been repealed. In his veto message, the Governor expressed concern about the fiscal impact of this legislation on the GF.

Final Disposition:

Passed House B&I Committee on January 11, 2018; 8-0.

Passed House Third Read on January 29, 2018; 59-0-1.

Passed Senate FIN Committee on February 28, 2018; 7-0.

Passed Senate Third Read on May 3, 2018; 22-6-2.

Transmitted to the Governor: May 3, 2018

Vetoed by the Governor: May 16, 2018

Cost/Savings Impact:

The cost/savings impact must be apportioned into the impact to the plan and the impact to the ASRS as an employer of this state.

The ASRS plan can expect to receive additional contributions reflecting the first 27 weeks of employment for state employees. The ASRS estimated the amount of unpaid contributions, attributable to the first 27 weeks of employment, for state employees in 2017 amounted to \$12.29M. While the ASRS plan will receive those additional contributions a portion of the money will aid in paying down the plan unfunded actuarial accrued liability while the remainder will be used to fund the effected member's future pension.

Conversely, the ASRS and all other state employers can expect to pay contributions from the date of employment for direct hire employees who meet all criteria for membership.

HB2021 JLAC; Auditor General

Sponsor: Allen

Makes various changes relating to audits of public agencies. The Auditor General is required to conduct annual, instead of at least biennial, financial and compliance audits of financial transactions and accounts kept by or for all state agencies subject to the federal single audit requirements. The Auditor General is required, as resources allow, to conduct an investigation related to allegations of financial impropriety, malfeasance or nonfeasance of a state agency or of a "political subdivision" (defined as a political subdivision that is funded in whole or in part by tax revenue) in connection with an audit authorized by law or on request of a state agency or specified public officers under specified circumstances. All officers of any state agency, board, commission, department, program or committee or any political subdivision and all contractors that contract with the state are required to afford reasonable and needed facilities for Auditor General staff and make records available in the form and at the time prescribed. The JLBC is required to notify all members of the Legislature of the cost to conduct a special audit for any legislative measure that requires the Auditor General to perform a special audit. This information is required to be provided before the measure is scheduled for third read in the house of origin or in the house where the special audit provision was added. The President of the Senate and the Speaker of the House of Representatives, instead of the JLAC, is required to designate the chairman of each committee of reference and assign agencies to the respective committees of reference according to subject matter. Modifies the list of factors the committee of reference must consider when determining the need for continuation or termination of an agency. JLAC is required to meet annually, instead of at least quarterly. Various reports are required to be submitted to the President of the Senate and the Speaker of the House of Representatives, instead of JLAC. Retroactive to July 1, 2018, the statutory termination date for JLAC is extended eight years, to July 1, 2026.

Final Disposition:

Passed House GOV Committee as amended on February 15, 2018; 7-0-0-1

Passed House Third Read as amended on February 21, 2018; 60-0

Passed Senate GOV Committee as amended on March 7, 2018; 6-1

Failed Senate Third Read on April 11, 2018; 6-24

Cost/Savings Impact:

None expected.

HB2077 Public Employees; Collective Bargaining

Sponsor: Cardenas

Public employees may form, join and participate in, or refrain from forming, joining or participating in unions. A three-member Public Employee Labor Relations Board is formed to certify or decertify union representation and to hear complaints of prohibited practices. Local public employee labor relations boards are also authorized. State employees are forbidden from engaging in or encouraging a strike, and public employers cannot engage in an employee lockout. The Board terminates on July 1, 2028.

Final Disposition:

Did not receive a hearing in the House Committee before the deadline.

Cost/Savings Impact:

None expected.

HB2080 ASRS; Investment; Contracts*

Sponsor: Livingston

The ASRS is exempt from the APC and authorized to enter into contracts used directly for investment-related services.

Final Disposition:

Did not receive a hearing in the House Committee before the deadline.

Cost/Savings Impact:

Allowing the ASRS to contract outside the APC for investment-related services would potentially save the ASRS time and money in that it may be able to contract with more expert entities more quickly.

HB2105 Building Code Moratorium; Repeal

Sponsor: Leach

Repeals the moratorium on new or modified residential or commercial building codes that was in effect from June 30, 2009 to June 30, 2011.

S/E to A.R.S. §§ 38-764 and 38-766.01 would have allowed elected officials to retire from the ASRS without terminating employment.

Final Disposition:

Passed House Local & International Affairs Committee on January 17, 2018; 6-1

Passed House Third Read on February 6, 2018; 58-0

Passed Senate APPROP Committee as amended on March 14, 2018; 5-4

Failed to be Third Read in Senate by the deadline.

Cost/Savings Impact:

Allowing members to retire and continue working at 20/20 or above without meeting the requirements necessary to continue to receive their pension, may have put the ASRS tax exempt status under the IRC at risk. Losing the tax exempt status under the IRC may have potentially required the ASRS, as well as members, to pay taxes that historically, have not been required and for which the plan did not actuarially account.

HB2110 Universities; Governing Boards

Sponsor: Finchem

Establishes the Governing Board of Arizona State University, the Governing Board of the University of Arizona, and the Governing Board of Northern Arizona University to provide direct oversight of each university. All three governing boards consist of three members appointed by the Governor, one member appointed by the Speaker of the House of Representatives, and one member appointed by the President of the Senate, and each governing board is required to elect a chairperson from among its members. Each governing board is a body corporate with perpetual succession, and powers and duties of the boards are established. Governing board members are not eligible for compensation, but are eligible for reimbursement of specified expenses. The role of ABOR throughout various statutes is deleted and replaced by the governing boards, including the power to appoint and employ university presidents and other staff, to fix tuition and fees, to establish curricula, to award degrees and diplomas, to prescribe admission qualifications, and to adopt budgets. Repeals and replaces the powers and duties of ABOR, requires ABOR to meet twice each year to review the actions of each governing board, and states that the responsibilities specifically prescribed in statute are the only responsibilities of ABOR. Each governing board, instead of ABOR, is an annual budget unit for the purpose of state budgeting. Each governing board terminates on July 1, 2028. Session law provides for the governing boards to succeed to the authority, powers, duties and responsibilities of ABOR and for the transfer of appropriated monies and properties. Effective January 1, 2019. Due to voter protection, one section of this legislation requires the affirmative vote of at least 3/4 of the members of each house of the Legislature for passage.

Final Disposition:

Bill did not receive a hearing in the House Committee prior to the deadline.

Cost/Savings Impact:

None expected.

HB2118 Public Records; Denial of Access

Sponsor: Kern

The court is required, instead of allowed, to award attorney fees and other legal costs to a person who is denied access to public records and who appeals the denial through a special action in the superior court and substantially prevails. Any award for attorney fees and costs must be assessed against either the individual department responsible for denying access to the public records or against the public body that directly employs the custodian of the public records.

Final Disposition:

Passed House JPS Committee on February 14, 2018; 9-0.

Passed House Third Read as amended on February 21, 2018; 59-1.

Passed Senate JUD Committee on March 15, 2018; 5-2

Failed Senate GOV Committee on March 21, 2018; 2-5

Cost/Savings Impact:

None expected.

HB2145 TPT; Service; Tuition Surcharge

Sponsor: Cardenas

Establishes the services classification of transaction privilege taxes and levies a tax of one percent of the tax base on a list of businesses that are not otherwise classified for transaction privilege taxation, including legal and engineering services, real estate services, personal care services, various health and medical services, social services, death care services, management and business support services, repair services, and more. Of the monies collected from the services classification each month, 25 percent must be transferred to the Classroom Site Fund for teacher compensation increases, 25 percent must be transferred to the Financial Aid Trust Fund for financial aid to resident students at state universities, 25 percent must be transferred to the PSPRS Fund to pay unfunded accrued liability, and 25 percent must be transferred to the newly established Arizona Higher Education Financial Aid Program Fund. The Commission for Postsecondary Education is required to establish the Arizona Higher Education Financial Aid Program and to develop application and approval criteria for persons to apply to participate in the Program. The ABOR is required to assess a surcharge of \$300 each year on tuition paid by each nonresident student, and to deposit the monies in the Program Fund. Establishes criteria for a person to qualify for financial aid from the Program Fund. The Commission is required to distribute monies from the Fund beginning in 2023 to cover the full amount of each qualifying student's tuition and fees at the university or community college where the student is enrolled. The Program terminates on July 1, 2028. Due to a potential increase in state revenue, this legislation requires the affirmative vote of at least 2/3 of the members of each house of the Legislature for passage, and becomes effective on signature of the Governor.

Final Disposition:

Bill did not receive a hearing in the House Committee prior to the deadline.

Cost/Savings Impact:

None expected.

HB2207 Public Meetings; Audiovisual Recordings; Posting

Sponsor: Grantham

Effective January 1, 2019, all "licensing authorities" (defined elsewhere in statute) would have been required to provide for a digital recording of all their meetings except executive sessions, and would have been required to post the digital recording of a meeting on its website within five days after the meeting and retain the recording on its website for at least five years. The ADOA would have been required to conduct a study evaluating the costs of providing for complete audiovisual recordings of all meetings of a licensing authority, and information that would have been required to be included in the study was specified. The ADOA would have been required to submit a report of its findings and recommendations to the Governor and the Legislature by October 1, 2018. In his veto message, the Governor asked the Legislature to send him a budget that gives teachers a 20 percent raise by 2020 and restores additional assistance.

Final Disposition:

Passed House FP&P Committee on February 6, 2018; 9-0

Passed House Third Read on February 21, 2018; 46-14

Passed Senate COMPS Committee on March 12, 2018; 30-0

Transmitted to Governor on April 19, 2018

Vetoed by the Governor on April 20, 2018

Cost/Savings Impact:

None expected.

HB2273 Public Employees; Compensation Cap

Sponsor: Thorpe

Beginning on January 1, 2020, the annual salary, "benefits package" (defined) and other non-salary compensation with a monetary value for each "public employee" (defined) or direct contract labor employee is prohibited from exceeding either two times the annual salary, benefits package and other non-salary compensation with a monetary value of the Governor, or eight times the average annual salary, benefits package and other non-salary compensation with a monetary value of a member of the Legislature, whichever is less.

Final Disposition:

Passed House FP&P Committee on February 6, 2018; 5-3-0-1

Failed to be Third Read in House by the deadline.

Cost/Savings Impact:

None expected.

HB2357 EORP; Employer Contributions

Sponsor: Livingston

Beginning July 1, 2018, each EORP employer is required to make contributions on a level percent of compensation basis for all member employees sufficient under an actuarial valuation to meet both the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability over a closed period of 20-30 years. In any FY, an employer's contribution to EORP in combination with member contributions may not be less than the actuarially determined normal cost for that FY. This bill included an emergency clause.

Final Disposition:

Passed House B&I Committee on January 18, 2018; 6-1-0-1

Failed House Third Read on February 12, 2018; 21-37-1-0-1

Passed House Third Read on February 21, 2018; 45-15

Bill did not receive a hearing in the Senate Committee prior to the deadline.

Cost/Savings Impact:

None expected.

HB2431 PSPRS; Normal Retirement; Employee Contributions

Sponsor: Cardenas

For the PSPRS, the definition of "normal retirement date" for an employee who becomes a member on or after July 1, 2017, is modified to eliminate the requirement that the employee be at least 55 years of age to retire after 15 years of credited service. The separate calculations for employee contribution rates that applied to employees hired on or after July 1, 2017 are deleted.

Final Disposition:

Bill did not receive a hearing in the House Committee prior to the deadline.

Cost/Savings Impact:

None expected.

HB2437 Employment Omnibus

Sponsor: Andrade

Various changes related to employment regulations. Prohibits employers from terminating any employee unless the employee commits one of a list of acts, and from requiring any employee to reenact an injury arising out of or in the course of employment. Establishes employee training requirements. Employers are required to allow a labor organization to offer presentations to new employees. Employer policies do not supersede any valid provision of a collective bargaining agreement. The list of protected classes for employment discrimination purposes is expanded to include gender, gender identity or expression, sexual orientation and marital status, and adds an exemption for a religious organization for positions directly related to the religious functions of the organization.

Final Disposition:

Bill did not receive a hearing in the House Committee prior to the deadline.

Cost/Savings Impact:

None expected.

HB2451 Diaper Changing Stations; Public Restrooms (also SB1230)

Sponsor: Andrade

Any public or private entity that constructs a new restroom or "substantially renovates" (defined) an existing restroom in a "public building" (defined) or place of public accommodation is required to include at least one baby diaper changing station.

Final Disposition:

Bill did not receive a hearing in the House Committee prior to the deadline.

Cost/Savings Impact:

None expected.

HB2467 Employment; Employee Work Scheduling

Sponsor: Blanc

Adds a new chapter to Title 23 (Labor) regulating employee scheduling. Employers are required to pay an employee for a minimum of four hours or the number of hours in the employee's scheduled work shift, whichever is less, on any day that the employee either reports for duty but does not work the entire shift due to the actions of the employer or is notified less than 24 hours before a shift that the employee does not need to report to work or that the hours have been reduced. Employees have the right to request not to be scheduled for work shifts during certain times or at certain locations and the right to identify certain preferences. Employers are required to provide a new employee with a written good faith estimate of the employee's work schedule at the time of hire, and are required to provide an employee with a work schedule in writing at least 14 calendar days before the first day of the work schedule.

Final Disposition:

Bill did not receive a hearing in the House Committee prior to the deadline.

Cost/Savings Impact:

None expected.

HB2468 State Personnel System; Covered (also SB1462)

Sponsor: Blanc

Statutes governing the state personnel system are repealed and replaced. Proposed changes to how the ASRS pays bonuses to investment staff.

Provisions:

- 1) Revoked any special pay plan established by the ASRS or PSPRS for investment staff and required ADOA to establish a “market adjustment system”. Once the system is established it would then be utilized to determine pay increases for investment staff rather than providing bonuses.
- 2) Established a new personnel system for the State to be administered by ADOA.

Final Disposition:

Bill did not receive a hearing in the House Committee prior to the deadline.

Cost/Savings Impact:

The ASRS has found that providing bonuses to investment staff, only awarded in years where the plan has a positive investment return, is an incentive for successful performance and retention of qualified staff. Additionally, the ASRS outperforms benchmarks with our internal staff at a significantly lower cost, net of salary and bonuses, than could be obtained through outside investment.

HB2523 Administrative Hearings; Procedures

Sponsor: Syms

In a contested case, all parties would have been required to be afforded an opportunity to participate in a settlement conference or mediation unless both parties or the hearing officer declined. If there was no genuine issue of material fact, a party would have been permitted to seek disposition of the case by motion. If an administrative law judge found against an agency after the agency prevailed in the initial agency determination and a subsequent appeal to an appeals board resulted in a decision against the agency, the administrative law judge would have been permitted to require the agency to pay reasonable costs and fees. In his veto message, the Governor expressed concern that this bill is too broad and could allow the proliferation of litigation from agency actions taken prior to a final appealable agency decision.

Final Disposition:

Passed House JPS Committee on February 14, 2018; 7-1-0-1

Passed House Third Read on February 21, 2018; 58-1-1

Passed Senate Government Committee on March 14, 2018; 6-0-1

Passed Senate Third Read on March 28, 2018; 30-0

Transmitted to Governor on March 28, 2018

Vetoed by Governor on April 4, 2018

Cost/Savings Impact:

None expected.

HB2590 Rural Growth Investments; Tax Credits

Sponsor: Cook

For tax years beginning with 2019, a credit against individual and corporate income taxes and insurance premium taxes is established for eligible capital contributions to a rural growth fund as certified by the Arizona Commerce Authority. However, a credit is not allowed against the portion of the tax payable to the PSPRS pursuant A.R.S. § 20-224. The aggregate amount of the credit is the amount of the taxpayer's credit-eligible capital contribution to the rural growth fund, and the taxpayer may claim and apply up to 25 percent of the aggregate amount for each taxable year that includes the 3rd through 6th anniversaries of the closing date stated on the certificate from the Authority. If the amount of the credit exceeds taxes due, the taxpayer may carry the unused amount forward for up to 10 consecutive taxable years. A qualified investment company with rural growth investments is authorized to apply to the authority for approval as a rural growth fund for the purposes of the credit. The application must be accompanied by a fee in an amount prescribed by the Authority, and must include specified information. The Authority is prohibited from approving more than \$50 million in investment authority and from approving more than \$30 million in credit-eligible capital contributions. The Authority is prohibited from approving more than \$20 million of investment authority for any individual rural growth fund.

Final Disposition:

Bill did not receive a hearing in the House Committee prior to the deadline.

Cost/Savings Impact:

None expected.

HB2627 Contracting; Investments; Prohibition; Border Wall

Sponsor: Blanc

Within 180 days after the effective date of this legislation, the "public funds" (defined as the ASRS, the EORP, the PSPRS and the CORP) are required to make a reasonable effort to identify all "scrutinized companies" (defined as any company that has a contract with the federal government to build a wall along the U.S.-Mexico border) and compile a scrutinized companies list, which the public funds must update monthly. The state is prohibited from contracting with a scrutinized company for any product or service, and the public funds are required to sell, redeem, divest or withdraw all publicly traded securities of a scrutinized company.

Final Disposition:

Bill did not receive a hearing in the House Committee prior to the deadline.

Cost/Savings Impact:

None expected.

HB2634 Retirement System; Investment Fees; Disclosures

Sponsor: Salman

Each "alternative investment manager" (defined) that receives capital commitments for an "alternative investment vehicle" (defined) from the governing board of a public retirement system is required to file a disclosure on each alternative investment vehicle at least annually with the State Treasurer. The disclosure must include a list of specified information, including the fees and expenses incurred, and compensation for the alternative investment manager's named executive officers. Applies to all new, amended, renewed or extended contracts beginning January 1, 2018. Retroactive to January 1, 2018.

Final Disposition:

Bill did not receive a hearing in the House Committee prior to the deadline.

Cost/Savings Impact:

None expected.

HB2639 Investment Management Services; Excise Tax

Sponsor: Salman

Beginning January 1, 2019, a tax is levied on each partnership and S corporation engaging or continuing in the business of conducting "investment management services" (defined) at a rate of 20 percent on the fees calculated by reference to the performance of the investment portfolio funds and not from the investment itself. Due to a potential increase in state revenue, this legislation requires the affirmative vote of at least 2/3 of the members of each house of the Legislature for passage, and becomes effective on signature of the Governor.

Final Disposition:

Bill did not receive a hearing in the House Committee prior to the deadline.

Cost/Savings Impact:

None expected.

SB1262 Retirement; Assumed Rate of Return

Sponsor: Petersen

Beginning with the actuarial valuation report issued for FY2018-19, for all of the defined benefit retirement plans the PSPRS Board manages, the Board is required to adopt an assumed rate of return that is not greater than 200 basis points above a 3-year rolling average of the 20-year treasury constant maturity rates as of June 30 of the FY for which the actuarial valuation report is being prepared. If the assumed rate of return for FY2018-19 exceeds this threshold, the Board is required to reduce the assumed rate of return by at least 25 basis points annually until the assumed rate of return is at or below the threshold.

Final Disposition:

Passed Senate FIN Committee on February 14, 2018; 4-2-1

Failed to be Third Read in Senate by the deadline.

Cost/Savings Impact:

None expected.

SB1292 EORP; Cost-of-living Adjustment

Sponsor: Farnsworth

For the EORP, each retired member or survivor of a retired member is eligible to receive a compounding cost-of-living adjustment in the base benefit based on the average annual percentage change in the metropolitan Phoenix-Mesa consumer price index, with the immediately preceding year as the base year for making the determination, up to a maximum of two percent of the retired member's or survivor's base benefit annually. Repeals statutes governing EORP benefit increases. Conditionally enacted on the state Constitution being amended by the voters at the 2018 general election as prescribed in SCR1010.

Final Disposition:

Passed Senate FIN Committee on February 7, 2018; 7-0

Passed Senate Third Read on February 15, 2018; 29-0-1

Bill did not receive a hearing in the House Committee prior to the deadline.

Cost/Savings Impact:

None expected.

SB1370 Public Facilities; Environmental Policies

Sponsor: Mendez

By July 1, 2023, all state agencies, universities, school districts, and community college districts must purchase at least 10 percent of their energy from "green sources" (defined). And all existing state buildings that are more than 50,000 square feet must conform to the leadership in energy and environmental design (LEED) existing building standards. All new or leased state buildings must conform to the LEED rating system. The ADOA, ADOT, and ABOR must reduce energy use in public buildings they administer by 20 percent per square foot by July 1, 2025, using FY2001-2002 as the baseline year. Establishes the Energy & Water Efficiency Fund for public facilities to be administered by the Arizona Commerce Authority. The Fund will provide loans to finance energy and water efficiency measures for public facilities and terminates on July 1, 2028. By December 31, 2019, school districts and charter schools are required to adopt green cleaning policies and purchase and use environmentally sensitive cleaning products. Also establishes an 11-member Green Public Schools Task Force to recommend a model green cleaning policy for public schools. The Task Force must submit a report to the Governor and the Legislature by November 1, 2019 and self-repeals January 1, 2020.

Final Disposition:

Bill did not receive a hearing in the Senate Committee prior to the deadline.

Cost/Savings Impact:

None expected.

SB1407 Appropriation; PSPRS; Pension Liability; Prescott

Sponsor: Fann

Appropriates \$7.8 million from the GF in FY2018-19 to the PSPRS for deposit in the employer account of the Prescott fire department group to offset the increased pension liability caused by the deaths of the granite mountain hotshots.

Final Disposition:

Bill did not receive a hearing in the Senate Committee prior to the deadline.

Cost/Savings Impact:

None expected.

SCR1010 Public Retirement Systems

Sponsor: Farnsworth

The 2018 general election ballot is to carry the question of whether to amend the state Constitution to provide that the Constitutional provision prohibiting public retirement system benefits from being diminished or impaired does not prohibit certain adjustments to the CORP as provided in SB1442 as enacted by the 53rd Legislature, 1st Regular Session, and does not prohibit certain adjustments to the EORP as provided in SB1292 as enacted by the 53rd Legislature, 2nd Regular Session. The Legislature requests the SOS return SCR1023, 53rd Legislature, 1st Regular Session, to the Legislature and submit this resolution in lieu of SCR1023.

Final Disposition:

Passed Senate FIN Committee on February 7, 2018; 6-0-1

Passed Senate Third Read on February 15, 2018; 29-0-1

Passed House APPROP Committee on March 28, 2018; 7-3-0-3

Failed to be Third Read in House before the deadline.

Cost/Savings Impact:

None expected.

APPENDIX A

Members of the 53rd Legislature, 2nd Regular Session

Arizona State Senate

Name	District	Party
Sylvia Allen	6	R
Nancy Barto	15	R
Sonny Borrelli*	5	R
Sean Bowie*	18	D
David Bradley, <i>Minority Leader Pro Tempore</i>	10	D
Kate Brophy-McGee	28	R
Judy Burges	22	R
Olivia Cajero-Bedford*	3	D
Lupe Contreras, <i>Minority Whip</i>	19	D
Andrea Dalessandro	2	D
Karen Fann*	1	R
Steve Farley, <i>Assistant Minority Leader*</i>	9	D
David Farnsworth*	16	R
Gail Griffin, <i>Majority Whip</i>	14	R
Katie Hobbs, <i>Minority Leader</i>	24	D
John Kavanagh, <i>President Pro Tempore</i>	23	R
Sine Kerr	13	R
Debbie Lesko	21	R
Juan Mendez	26	D
Robert Meza	30	D
Catherine Miranda	27	D
Lisa Otondo	4	D
Jamescita Peshlakai	7	D
Warren Petersen*	12	R
Frank Pratt	8	R
Martin Quezada, <i>Minority Whip</i>	29	D
Steve Smith	11	R
Bob Worsley	25	R
Steve Yarbrough, <i>President</i>	17	R
Kimberly Yee, <i>Majority Leader</i>	20	R

* Members of the Senate FIN Committee (Senate committee for most ASRS bills)

Arizona State House of Representatives

Name	District	Party
John Allen, <i>Majority Leader*</i>	15	R
Lela Alston	24	D
Richard Andrade	29	D
Brenda Barton	6	R
Wenona Benally	7	D
Isela Blanc	26	D
Reginald Bolding	27	D
Russell Bowers	25	R
Paul Boyer	20	R
Kelli Butler*	28	D
Noel Campbell	1	R
Mark Cardenas	19	D
Heather Carter	15	R
César Chavez	29	D
Ken Clark	24	D
Todd Clodfelter	10	R
Regina Cobb	5	R
Douglas Coleman	16	R
David Cook	8	R
Eric Descheenie	7	D
Kirsten Engel	10	D
Mitzi Epstein	18	D
Diego Espinoza	19	D
Eddie Farnsworth*	12	R
Charlene Fernandez, <i>Minority Whip</i>	4	D
Mark Finchem	11	R
Randall Friese, <i>Assistant Minority Leader</i>	9	D
Rosanna Gabaldón	2	D
Sally Ann Gonzales	3	D
Travis Grantham	12	R
Daniel Hernandez	2	D
Drew John	14	R
Anthony Kern	20	R
Jay Lawrence	23	R
Vince Leach	11	R
David Livingston*	22	R
Ray Martinez	30	D
JD Mesnard, <i>Speaker</i>	17	R
Darin Mitchell	13	R
Paul Mosley*	5	R
Tony Navarrete	30	D
Jill Norgaard	18	R

Becky Nutt	14	R
Kevin Payne	21	R
Pamela Powers-Hannley*	9	D
Rebecca Rios, <i>Minority Leader</i>	27	D
Tony Rivero	21	R
Macario Saldate	3	D
Athena Salman*	26	D
Don Shooter—Expelled on 2/1/2018	13	R
Thomas Shope, <i>Speaker Pro Tempore</i>	8	R
David Stringer	1	R
Maria Syms	28	R
Bob Thorpe	6	R
Ben Toma*	22	R
Kelly Townsend, <i>Majority Whip</i>	16	R
Michelle Udall	25	R
Michelle Ugenti-Rita	23	R
Jeff Weninger	17	R

* Members of the House B&I Committee (House committee for most ASRS bills)

APPENDIX B

Glossary of Terms and Abbreviations

AAC	Arizona Administrative Code
AAR	Arizona Administrative Register
ABOR	Arizona Board of Regents
ADA	Americans with Disabilities Act
ADOA	Arizona Department of Administration
ADHS	Arizona Department of Health Services
ADOT	Arizona Department of Transportation
AG	Attorney General
ALJ	Administrative Law Judge
APC	Arizona Procurement Code
APPROP	House & Senate Appropriations Committees
A.R.S.	Arizona Revised Statutes
ASRS	Arizona State Retirement System
B&I	House Banking & Insurance Committee
BOS	Board of Supervisors
Chapter	Number assigned by the SOS to a measure that becomes law. Bill numbers are reused each legislative session, so the enactments need a different method of reference from year to year. Chapter numbers are assigned sequentially in the order received by the SOS and referred to by year and number as Laws 20XX, Chapter XX.
C.F.R.	Code of Federal Regulations
COLA	Cost-of-living Adjustment
COM	House Commerce Committee
COMPS	Senate Commerce & Public Safety Committee

CORP	Corrections Officer Retirement Plan
DEMA	Department of Emergency & Military Affairs
EODCRS	Elected Officials' Defined Contribution Retirement System
EORP	Elected Officials' Retirement Plan
FIN	Senate Finance Committee
FP&P	House Federalism, Property Rights, & Public Policy Committee
FTE	Full-time Equivalent
FY	Fiscal Year
GF	General Fund
GOV	House & Senate Government Committees
GRRC	Governor's Regulatory Review Council
HB	House Bill
HCR	House Concurrent Resolution
HHS	Senate Health & Human Services Committee
IRA	Individual Retirement Account
IRC	Internal Revenue Code
IRS	Internal Revenue Service
JLAC	Joint Legislative Audit Committee
JLBC	Joint Legislative Budget Committee
JPS	House Judiciary & Public Safety Committee
JUD	Senate Judiciary Committee
LTD	Long-Term Disability
MVRA	Military, Veterans, & Regulatory Affairs Committee
Normal Cost	The present value of the benefit that is assigned to the current year under the actuarial cost method.

OAH	Office of Administrative Hearings
Omnibus	A term used to describe a bill with many changes to a particular topic area.
Present Value	The present value of a future payment is the amount of money needed today to make that payment when due, if there are no other contributions or withdrawals from the fund. For example, if interest is 5% per annum, the present value of a payment of \$1.05 in a year is \$1 (i.e., a plan has to have \$1 on hand today to make a payment of \$1.05 in a year, if it can earn 5% per annum on its assets). Present values of future pension payments are discounted for interest and for the probability of the payments (i.e., the change that a member will live long enough and retire in time to receive the payment).
PSPRS	Public Safety Personnel Retirement System
§	Section
SB	Senate Bill
SCR	Senate Concurrent Resolution
S/E	Strike Everything Amendment
SOS	Secretary of State
WM	House Ways and Means Committee

