

**Public Policy Agenda Number 2.**

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**MEETING DATE:** April 2, 2015

**AGENDA ITEM:** Report on 2015 State Legislative Session and Possible Consideration of a Recommendation that the Board take Action on State Legislation and Policy Issues that Could Affect CAP, including but not limited to SB 1330 and HB 2417.

**RECOMMENDATION:** See attached document and proposed staff recommendations.

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**FINANCIAL IMPLICATIONS:** None

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**LINKAGE TO STRATEGIC PLAN, POLICY, STATUTE OR GUIDING PRINCIPLE:**

CAWCD Board of Directors 2010 Strategic Plan:

- Leadership & Public Trust: Relationships - Customers, Relationships - Other Stakeholders
- Water Supply: Reliability of the CAP Water Supply

**PREVIOUS BOARD ACTION/ACTIVITY:**

September 4, 2014 Public Policy Committee previewed and discussed the draft proposed 2015 State Legislative Agenda

October 2, 2014 Board adopted 2015 State Legislative Agenda

**ISSUE SUMMARY/DESCRIPTION:**

This report describes CAP's state legislative agenda and provides an update on those issues. In addition, this update reports on and requests guidance on bills being considered by the State Legislature.

See attached documents and issue descriptions.

**SUGGESTED MOTION:**

I move that the Public Policy Committee recommend that the Board adopt a position on the following pending state legislation of interest to CAP: (staff recommendations in parentheses)

SB 1330 Prohibited Activities; Second Amendment Violations (AMEND AND MONITOR)

HB 2417 Annual Pesticide Report; Submission Date STRIKER: Health Care Providers; Payments; Deductibles (AMEND AND MONITOR)

**Public Policy Agenda Number 2.  
Attachment 1.**

Senate Engrossed

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State of Arizona  
Senate  
Fifty-second Legislature  
First Regular Session  
2015

**SENATE BILL 1330**

AN ACT

AMENDING TITLE 13, CHAPTER 31, ARIZONA REVISED STATUTES, BY ADDING SECTION  
13-3122; RELATING TO FIREARMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 13, chapter 31, Arizona Revised Statutes, is amended  
3 by adding section 13-3122, to read:

4 13-3122. Second amendment violations: prohibited activities:  
5 state treasurer: prohibited money transfers: civil  
6 penalties: classification

7 A. NOTWITHSTANDING ANY OTHER LAW AND EXCEPT AS REQUIRED BY A COURT  
8 ORDER, AN AGENCY OF THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE OR AN  
9 EMPLOYEE OF AN AGENCY OR POLITICAL SUBDIVISION OF THIS STATE ACTING IN THE  
10 EMPLOYEE'S OFFICIAL CAPACITY SHALL NOT DO ANY OF THE FOLLOWING:

11 1. KNOWINGLY AND WILLINGLY PARTICIPATE IN ANY WAY IN THE ENFORCEMENT  
12 OF ANY FEDERAL ACT, LAW, ORDER, RULE OR REGULATION ISSUED, ENACTED OR  
13 PROMULGATED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION REGARDING A  
14 PERSONAL FIREARM, FIREARM ACCESSORY OR AMMUNITION.

15 2. USE ANY ASSETS, STATE MONIES OR MONIES ALLOCATED BY THIS STATE TO  
16 POLITICAL SUBDIVISIONS OF THIS STATE ON OR AFTER THE EFFECTIVE DATE OF THIS  
17 SECTION, IN WHOLE OR IN PART, TO ENGAGE IN ANY ACTIVITY THAT AIDS A FEDERAL  
18 AGENCY, FEDERAL AGENT OR CORPORATION PROVIDING SERVICES TO THE FEDERAL  
19 GOVERNMENT IN THE ENFORCEMENT OR ANY INVESTIGATION PURSUANT TO THE  
20 ENFORCEMENT OF ANY FEDERAL ACT, LAW, ORDER, RULE OR REGULATION ISSUED,  
21 ENACTED OR PROMULGATED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION  
22 REGARDING A PERSONAL FIREARM, FIREARM ACCESSORY, OR AMMUNITION.

23 B. NOTWITHSTANDING ANY OTHER LAW, THE STATE TREASURER SHALL NOT  
24 TRANSFER ANY MONIES TO A POLITICAL SUBDIVISION OF THIS STATE IN THE FISCAL  
25 YEAR AFTER A FINAL JUDICIAL DETERMINATION IS MADE THAT THE POLITICAL  
26 SUBDIVISION OF THIS STATE ADOPTED A RULE, ORDER, ORDINANCE OR POLICY THAT  
27 INTENTIONALLY VIOLATED THIS SECTION.

28 C. ANY AGENT OR EMPLOYEE OF THIS STATE OR ANY POLITICAL SUBDIVISION OF  
29 THIS STATE WHO KNOWINGLY VIOLATES THIS SECTION IS SUBJECT TO THE FOLLOWING:

30 1. A CIVIL PENALTY OF NOT MORE THAN THREE THOUSAND DOLLARS FOR THE  
31 FIRST VIOLATION OF THIS SECTION.

32 2. A CLASS 1 MISDEMEANOR FOR A SECOND OR SUBSEQUENT VIOLATION OF THIS  
33 SECTION.

34 Sec. 2. Legislative findings

35 A. The Legislature finds:

36 1. The right to keep and bear arms is a fundamental individual right  
37 that shall not be infringed.

38 2. That it is the intent of the Legislature in enacting this act to  
39 protect Arizona employees, including law enforcement officers, from being  
40 directed, through federal executive orders, agency orders, statutes, laws,  
41 rules or regulations enacted or promulgated on or after the effective date of  
42 this act to violate their oath of office and individual rights affirmed under  
43 the second amendment to the Constitution of the United States and article II,  
44 section 26, Constitution of Arizona.

1           3. That pursuant to and in furtherance of the principles of federalism  
2 enshrined in the Constitution of the United States, the federal government  
3 may not commandeer this state's officers, agents or employees to participate  
4 in the enforcement or facilitation of any federal program not expressly  
5 required by the Constitution of the United States.

6           4. That this right to be free from the commandeering hand of the  
7 federal government has been most notably recognized by the United States  
8 Supreme Court in Printz v. United States when the Court held, "The Federal  
9 Government may neither issue directives requiring the States to address  
10 particular problems, nor command the States' officers, or those of their  
11 political subdivisions, to administer or enforce a federal regulatory  
12 program".

13           5. That the anticommandeering principles recognized by the United  
14 States Supreme Court in Printz v. United States are predicated on the advice  
15 of James Madison, who in Federalist Number 46 advised "a refusal to cooperate  
16 with officers of the Union" in response to either unconstitutional federal  
17 measures or constitutional but unpopular federal measures.

## Public Policy Agenda Number 2. Attachment 2.

Fifty-second Legislature  
First Regular Session

Health and Human Services  
H.B. 2417

### COMMITTEE ON HEALTH AND HUMAN SERVICES

#### SENATE AMENDMENTS TO H.B. 2417

(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 32-3216, Arizona Revised Statutes, is amended to  
3 read:

4 32-3216. Health care providers; charges; public availability;  
5 direct payment; notice; definitions

6 A. A health care provider must make available on request or online the  
7 direct pay price for at least the twenty-five most commonly provided  
8 services, if applicable, for the health care provider. The services may be  
9 identified by a common procedural terminology code or by a plain-English  
10 description. The direct pay prices must be updated at least annually and  
11 must be based on the services from a twelve-month period that occurred within  
12 the eighteen-month period preceding the annual update. The direct pay price  
13 must be for the standard treatment provided for the service and may include  
14 the cost of treatment for complications or exceptional treatment. Health  
15 care providers who are owners or employees of a legal entity with fewer than  
16 three licensed health care providers are exempt from the requirements of this  
17 subsection.

18 B. Subsection A of this section does not apply to emergency services.

19 C. The health care services provided by health care providers in  
20 veterans administration facilities, health facilities on military bases,  
21 Indian health services hospitals and other Indian health service facilities,  
22 tribal owned clinics, the Arizona state hospital and any health care facility  
23 determined to be exempt pursuant to section 36-437, subsection D, are exempt  
24 from the requirements ~~and provisions~~ of this section.

1           D. Subsection A of this section does not prevent a health care  
2 provider from offering either additional discounts or additional lawful  
3 health care services for an additional cost to a person or an employer paying  
4 directly.

5           E. A health care provider is not required to report the direct pay  
6 prices to a government agency or department or to a government-authorized or  
7 government-created entity for review or filing. A government agency or  
8 department or government-authorized or government-created entity may not  
9 approve, disapprove or limit a health care provider's direct pay price for  
10 services. A government agency or department or government-authorized or  
11 government-created entity may not approve, disapprove or limit a health care  
12 provider's ability to change the published or posted direct pay price for  
13 services.

14           F. A health care system may not punish a person or employer for paying  
15 directly for lawful health care services or a health care provider for  
16 accepting direct payment from a person or employer for lawful health care  
17 services.

18           G. Except as provided in subsection ~~J~~ K of this section, a health  
19 care provider who receives direct payment from a person or employer for a  
20 lawful health care service is deemed paid in full if the entire fee for the  
21 service is paid and shall not submit a claim for payment or reimbursement for  
22 the service to any health care system. This subsection does not prevent a  
23 health care provider from pursuing a health care lien for customary charges  
24 pursuant to title 33. This subsection does not affect the ability of a  
25 health care provider to submit claims for the same service provided on other  
26 occasions to the same or a different person if no direct payment occurs.  
27 This subsection does not require a health care provider to refund or adjust  
28 any capitated payment, bundled payment or other form of prepayment or global  
29 payment made by a health care system to the health care provider for lawful  
30 health care services to be provided by the health care provider for the  
31 person who makes, or on whose behalf an employer makes, direct payment to the  
32 health care provider.

1 H. Before a health care provider who is contracted as a network  
2 provider for a health care system accepts direct payment from a person or an  
3 employer, and the person is an enrollee of the same health care system, the  
4 health care provider shall obtain the person's or employer's signature on a  
5 notice in a form that is substantially similar to the following:

6 Important notice about direct payment  
7 for your health care services

8 The Arizona Constitution permits you to pay a health care  
9 provider directly for health care services. Before you make any  
10 agreement to do so, please read the following important  
11 information:

12 If you are an enrollee of a health care system (more  
13 commonly referred to as a health insurance plan) and your health  
14 care provider is contracted with the health insurance plan, the  
15 following apply:

16 1. You may not be required to pay the health care provider  
17 directly for the services covered by your plan, except for cost  
18 share amounts that you are obligated to pay under your plan, such  
19 as copayments, coinsurance and deductible amounts.

20 2. Your provider's agreement with the health insurance  
21 plan may prevent the health care provider from billing you for  
22 the difference between the provider's billed charges and the  
23 amount allowed by your health insurance plan for covered  
24 services.

25 3. If you pay directly for a health care service, your  
26 health care provider will not be responsible for submitting claim  
27 documentation to your health insurance plan for that claim.  
28 Before paying your claim, your health insurance plan may require  
29 you to provide information and submit documentation necessary to  
30 determine whether the services are covered under your plan.

31 4. If you do not pay directly for a health care service,  
32 your health care provider may be responsible for submitting claim

1 documentation to your health insurance plan for the health care  
2 service.

3 Your signature below acknowledges that you received this  
4 notice before paying directly for a health care service.

5 I. A health care provider who receives direct payment for a lawful  
6 health care service and who complies with subsection H of this section is not  
7 responsible for submitting documentation of any kind for purposes of  
8 reimbursement to any health care system for that claim if the failure to  
9 submit such documentation does not conflict with the terms of any federal or  
10 state contracts to which the health care system is a party and the health  
11 care provider has agreed to serve patients under or with applicable state or  
12 federal programs in which a health care provider and health care system  
13 participate.

14 J. IF AN ENROLLEE PAYS TO A HEALTH CARE PROVIDER WHO IS AN  
15 OUT-OF-NETWORK PROVIDER THE DIRECT PAY PRICE FOR A LAWFUL HEALTH CARE SERVICE  
16 THAT IS COVERED UNDER THE ENROLLEE'S HEALTH CARE PLAN, PURSUANT TO THE  
17 REQUIREMENTS OF THIS SECTION, THE AMOUNT PAID BY THE ENROLLEE SHALL BE  
18 APPLIED FIRST TO THE ENROLLEE'S IN-NETWORK DEDUCTIBLE WITH ANY REMAINING  
19 MONIES BEING APPLIED TO THE ENROLLEE'S OUT-OF-NETWORK DEDUCTIBLE, IF  
20 APPLICABLE. THE AMOUNT APPLIED TO THE IN-NETWORK DEDUCTIBLE SHALL BE THE  
21 AMOUNT PAID DIRECTLY OR THE INSURER'S HIGHEST IN-NETWORK CONTRACTED RATE IN  
22 ARIZONA FOR THE SERVICE OR SERVICES, WHICHEVER IS LOWER.

23 ~~J.~~ K. This section does not impair the provisions of a health care  
24 system's private health care network provider contract, except that a health  
25 care provider may accept direct payment from a person or employer or may  
26 decline to bill the health care system directly for services paid directly by  
27 a person or employer if the health care provider has complied with subsection  
28 H of this section and the health care provider's receipt of direct payment  
29 and the declination to bill the health care system do not conflict with the  
30 terms of any federal or state contract to which the health care system is a  
31 party and the health care provider has agreed to serve patients under or with  
32 applicable state or federal programs in which both a health care provider and  
33 health care system participate.



1           ~~L.~~ L. A health care provider who does not comply with the  
2 requirements of this section commits unprofessional conduct. Any  
3 disciplinary action taken by the health professional's licensing board may  
4 not include revocation of the health care provider's license.

5           ~~M.~~ M. For the purposes of this section:

6           1. "Direct pay price" means the price that will be charged by a health  
7 care provider for a lawful health care service, regardless of the health  
8 insurance status of the person, if the entire fee for the service is paid in  
9 full directly to a health care provider by the person, including the person's  
10 health savings account, or by the person's employer and that does not  
11 prohibit a provider from establishing a payment plan with the person paying  
12 directly for services.

13           2. "Emergency services" means lawful health care services needed to  
14 evaluate and stabilize an emergency medical condition as defined in 42 United  
15 States Code section 1396u-2(b)(2)(C).

16           3. "Enrollee" means a person who is enrolled in a health care plan  
17 provided by a health insurer.

18           4. "Health care plan" means a policy, contract or evidence of coverage  
19 issued to an enrollee. Health care plan does not include limited benefit  
20 coverage as defined in section 20-1137.

21           5. "Health care provider" means a person who is licensed pursuant to  
22 chapter 7, 8, 13, 16, 17, 19 or 34 of this title.

23           6. "Health care system" means a public or private entity whose  
24 function or purpose is the management, processing or enrollment of  
25 individuals or the payment, in full or in part, of health care services.

26           7. "Health insurer" means a disability insurer, group disability  
27 insurer, blanket disability insurer, health care services organization,  
28 hospital service corporation, medical service corporation or hospital and  
29 medical service corporation as defined in title 20.

30           8. "Lawful health care services" means any health-related service or  
31 treatment, to the extent that the service or treatment is permitted or not  
32 prohibited by law or regulation, that may be provided by persons or  
33 businesses otherwise permitted to offer the services or treatments.

1           9. "Punish" means to impose any penalty, surcharge or named fee with a  
2 similar effect that is used to discourage the exercise of rights under this  
3 section.

4           Sec. 2. Section 36-437, Arizona Revised Statutes, is amended to read:

5           36-437. Health care facilities; charges; public availability;  
6                           direct payment; notice; definitions

7           A. A health care facility with more than fifty inpatient beds must  
8 make available on request or online the direct pay price for at least the  
9 fifty most used diagnosis-related group codes, if applicable, for the  
10 facility and at least the fifty most used outpatient service codes, if  
11 applicable, for the facility. The services may be identified by a common  
12 procedural terminology code or by a plain-English description. The health  
13 care facility must update the direct pay prices at least annually based on  
14 the services from a twelve-month period that occurred within the  
15 eighteen-month period preceding the annual update. The direct pay price must  
16 be for the standard treatment provided for the service and may include the  
17 cost of treatment for complications or exceptional treatment.

18           B. A health care facility with fifty or fewer inpatient beds must make  
19 available on request or online the direct pay price for at least the  
20 thirty-five most used diagnosis-related group codes, if applicable, for the  
21 facility and at least the thirty-five most used outpatient service codes if  
22 applicable, for the facility. The services may be identified by a common  
23 procedural terminology code or by a plain-English description. The health  
24 care facility must update the direct pay prices at least annually based on  
25 the services from a twelve-month period that occurred within the  
26 eighteen-month period preceding the annual update. The direct pay price must  
27 be for the standard treatment provided for the service and may include the  
28 cost of treatment for complications or exceptional treatment.

29           C. Subsections A and B of this section do not apply if a discussion of  
30 the direct pay price would be a violation of the federal emergency medical  
31 treatment and labor act.

32           D. Veterans administration facilities, health facilities on military  
33 bases, Indian health services hospitals and other Indian health services

1 facilities, tribal owned clinics and the Arizona state hospital are exempt  
2 from the requirements ~~and provisions~~ of this section. If the director of the  
3 Arizona department of health services determines that a health care facility  
4 does not serve the general public, the health care facility shall be exempt  
5 from the requirements ~~and provisions~~ of this section if the facility does not  
6 serve the general public.

7 E. Subsections A and B of this section do not prevent a health care  
8 facility from offering either additional discounts or additional lawful  
9 health care services for an additional cost to a person or an employer paying  
10 directly.

11 F. A health care facility is not required to report the direct pay  
12 prices to a government agency or department or to a government-authorized or  
13 government-created entity for review. A government agency or department or  
14 government-authorized or government-created entity may not approve,  
15 disapprove or limit a health care facility's direct pay price for services.  
16 A government agency or department or government-authorized or  
17 government-created entity may not approve, disapprove or limit a health care  
18 facility's ability to change the published or posted direct pay price for  
19 services.

20 G. A health care system may not punish a person or employer for paying  
21 directly for lawful health care services or a health care facility for  
22 accepting direct payment from a person or employer for lawful health care  
23 services.

24 H. Except as provided in subsection ~~K~~ L of this section, a health  
25 care facility that receives direct payment from a person or employer for a  
26 lawful health care service is deemed paid in full if the entire fee for the  
27 service is paid and shall not submit a claim for payment or reimbursement for  
28 the service to any health care system. This subsection does not prevent a  
29 health care facility from pursuing a health care lien for customary charges  
30 pursuant to title 33. This subsection does not affect the ability of a  
31 health care facility to submit claims for the same service provided on other  
32 occasions to the same or a different person if no direct payment occurs.  
33 This subsection does not require a health care facility to refund or adjust

1 any capitated payment, bundled payment or ~~any~~ other form of prepayment or  
2 global payment made by a health care system to the health care facility for  
3 lawful health care services to be provided by the health care facility for  
4 the person who makes, or on whose behalf an employer makes, direct payment to  
5 the health care facility.

6 I. Before a health care facility that is contracted as a network  
7 provider for a health care system accepts direct payment from a person or an  
8 employer, and the person is an enrollee of the same health care system, the  
9 health care facility shall obtain the person's or employer's signature on a  
10 notice in a form that is substantially similar to the following:

11 Important notice about direct payment  
12 for your health care services

13 The Arizona Constitution permits you to pay a health care  
14 facility directly for health care services. Before you make any  
15 agreement to do so, please read the following important  
16 information:

17 If you are an enrollee of a health care system (more  
18 commonly referred to as a health insurance plan) and your health  
19 care facility is contracted with the health insurance plan, the  
20 following apply:

21 1. You may not be required to pay the health care facility  
22 directly for the services covered by your plan, except for cost  
23 share amounts that you are obligated to pay under your plan, such  
24 as copayments, coinsurance and deductible amounts.

25 2. Your provider's agreement with the health insurance  
26 plan may prevent the health care facility from billing you for  
27 the difference between the facility's billed charges and the  
28 amount allowed by your health insurance plan for covered  
29 services.

30 3. If you pay directly for a health care service, your  
31 health care facility will not be responsible for submitting claim  
32 documentation to your health insurance plan for that claim.  
33 Before paying your claim, your health insurance plan may require

1           you to provide information and submit documentation necessary to  
2           determine whether the services are covered under your plan.

3           4. If you do not pay directly for a health care service,  
4           your health care facility may be responsible for submitting claim  
5           documentation to your health insurance plan for the health care  
6           service.

7           Your signature below acknowledges that you received this  
8           notice before paying directly for a health care service.

9           J. A health care facility that receives direct payment for a lawful  
10          health care service and that complies with subsection I of this section is  
11          not responsible for submitting documentation of any kind for purposes of  
12          reimbursement to any health care system for that claim if the failure to  
13          submit such documentation does not conflict with the terms of any federal or  
14          state contracts to which the health care system is a party and the health  
15          care facility has agreed to serve patients under or with applicable state or  
16          federal programs in which a health care facility and health care system  
17          participate.

18          K. IF AN ENROLLEE PAYS TO A HEALTH CARE FACILITY THAT IS AN  
19          OUT-OF-NETWORK PROVIDER THE DIRECT PAY PRICE FOR A LAWFUL HEALTH CARE SERVICE  
20          THAT IS COVERED UNDER THE ENROLLEE'S HEALTH CARE PLAN, PURSUANT TO THE  
21          REQUIREMENTS OF THIS SECTION, THE AMOUNT PAID BY THE ENROLLEE SHALL BE  
22          APPLIED FIRST TO THE ENROLLEE'S IN-NETWORK DEDUCTIBLE WITH ANY REMAINING  
23          MONIES BEING APPLIED TO THE ENROLLEE'S OUT-OF-NETWORK DEDUCTIBLE, IF  
24          APPLICABLE. THE AMOUNT APPLIED TO THE IN-NETWORK DEDUCTIBLE SHALL BE THE  
25          AMOUNT PAID DIRECTLY OR THE INSURER'S HIGHEST IN-NETWORK CONTRACTED RATE IN  
26          ARIZONA FOR THE SERVICE OR SERVICES, WHICHEVER IS LOWER.

27          ~~K.~~ L. This section does not impair the provisions of a health care  
28          system's private health care network provider contract, except that a health  
29          care facility may accept direct payment from a person or employer or may  
30          decline to bill the health care system directly for services paid directly by  
31          a person or employer if the health care facility has complied with subsection  
32          I of this section and the health care facility's receipt of direct payment  
33          and the declination to bill the health care system do not conflict with the

1 terms of any federal or state contract to which the health care system is a  
2 party and the health care facility has agreed to serve patients under or with  
3 applicable state or federal programs in which a health care facility and  
4 health care system participate.

5 ~~L.~~ M. This section may not prevent the ~~Arizona~~ department of health  
6 services from performing an investigation of a health care facility under the  
7 department's powers and duties as ~~defined~~ PRESCRIBED in THIS title 36. If a  
8 health care facility fails to comply with this section, the penalty shall not  
9 include the revocation of the license to deliver health care services.

10 ~~M.~~ N. For the purposes of this section:

11 1. "Direct pay price" means the entire price that will be charged by a  
12 health care facility for a lawful health care service, regardless of the  
13 health insurance status of the person, if the entire fee for the service is  
14 paid in full directly to a health care facility by the person, including the  
15 person's health savings account, or by the person's employer and that does  
16 not prohibit a facility from establishing a payment plan with the person  
17 paying directly for services.

18 2. "Enrollee" means a person who is enrolled in a health care plan  
19 provided by a health insurer.

20 3. "Health care facility" means a hospital, outpatient surgical  
21 center, health care laboratory, diagnostic imaging center or urgent care  
22 center.

23 4. "Health care plan" means a policy, contract or evidence of coverage  
24 issued to an enrollee. Health care plan does not include limited benefit  
25 coverage as defined in section 20-1137.

26 5. "Health care provider" means a person who is licensed pursuant to  
27 TITLE 32, chapter 7, 8, 13, 16, 17, 19 or 34 ~~of title 32~~.

28 6. "Health care system" means a public or private entity whose  
29 function or purpose is the management, processing or enrollment of  
30 individuals or the payment, in full or in part, of health care services.

31 7. "Health insurer" means a disability insurer, group disability  
32 insurer, blanket disability insurer, health care services organization,

1 hospital service corporation, medical service corporation or hospital and  
2 medical service corporation as defined in title 20.

3 8. "Lawful health care services" means any health-related service or  
4 treatment, to the extent that the service or treatment is permitted or not  
5 prohibited by law or regulation, that may be provided by persons or  
6 businesses otherwise permitted to offer the services or treatments.

7 9. "Punish" means to impose any penalty, surcharge or named fee with a  
8 similar effect that is used to discourage the exercise of rights under this  
9 section.

10 Sec. 3. Applicability

11 This act applies to policies, contracts or plans that are issued or  
12 renewed from and after December 31, 2015."

13 Amend title to conform

2417nb  
03/13/2015  
2:05 PM  
C: mjh

# State Legislative Issues Update

**March 25, 2015**

The 52nd State Legislature's First Regular Session began on Monday, January 12, 2015. March 25 is the 73rd day of the session. 1,163 bills, including memorials and resolutions, have been introduced this session. Of which, 175 bills have been passed and 60 have been signed by the Governor.

The following State Legislative Issues Update outlines the status of the Board-approved 2015 Legislative Agenda as well as other relevant state legislation and issues.

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## **Extension of CAP 4-Cent Tax**

*Seek legislation to extend the expiration date of the Central Arizona Project 4-cent ad valorem tax levied by the CAWCD from 2017 to 2045.*

### **Status as of March 25, 2015:**

**H.B. 2661 multi-county water districts; storage tax**, sponsored by Representative Brenda Barton, would extend CAWCD's authority to levy the four-cent tax until 2030, a key milestone year for CAP by which costly emissions control technology must be installed at the Navajo Generating Station. The bill authorizes the tax to be assessed for up to 4-cents through 2024 and then drops to 3-cents for the remaining 5 years.

#### *Update:*

Having passed unanimously out of both the Senate Water & Energy Committee, 7-0, and the Finance Committee, 4-0, H.B. 2661 also passed the Rules Committee on March 16 and Caucus on March 17. The bill awaits a final vote by the full Senate.

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## **Central Arizona Groundwater Replenishment District (CAGRD) De-Enrollment**

*Seek legislation to create a mechanism for properties to de-enroll from the CAGRD under certain conditions.*

### **Status as of March 25, 2015:**

Throughout last year, CAP staff met with the Arizona Department of Water Resources (ADWR) and Arizona Department of Real Estate to discuss and draft CAGRD Member Land de-enrollment legislation. The draft proposal was shared with members of the RUMP Group and other stakeholders prior to the legislative session commencing. The legislation would allow CAGRD Member Lands to de-enroll voluntarily, subject to all of the following conditions: 1) the land cannot have been sold or leased to a retail purchaser or lessee; 2) no public report for the property has been issued; 3) if the lot or parcel boundaries have been recorded, the planning agency (e.g. county) has vacated them; 4) a declaration with the county has been recorded specifying that the property's CC&Rs have been revoked;



# State Legislative Issues Update

5) the agreement between CAGR D and the municipal provider has been revoked; and 6) if a Certificate of Assured Water Supply has been issued for the property, ADWR has revoked the Certificate.

## *Update:*

At the January 22 Public Policy Committee, Board Members generally agreed that this year may not be the optimal year to pursue CAGR D de-enrollment. However, CAP identified an opportunity to amend H.B. 2325 with the de-enrollment language and sought and gained the permission of the CAP Board President and Public Policy Chairwoman to proceed.

On March 18, the Senate Finance Committee adopted a strike-everything amendment to H.B. 2325 that contains the consensus CAGR D de-enrollment language. The bill has passed Committee of the Whole and awaits a vote by the full Senate.

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## **Arizona Department of Water Resources (ADWR) Funding**

*Monitor the Legislature's budgeting processes and agency rulemaking to ensure an adequate level of funding for the Arizona Department of Water Resources is maintained.*

### **Status as of March 25, 2015:**

The Legislature passed a FY2016 state budget on March 6, and the Governor subsequently signed that budget on March 12. The budget authorizes \$14,946,900 in spending for ADWR, a 5-percent increase over this year, and maintains similar funding for several line items. ADWR's full-time equivalent (FTE) positions increased to 100, up 4 FTEs from this year.

ADWR is funded by state General Fund monies and the fees it charges for services. For FY2016, the budget also calls for the transfer of \$1,209,700 from the Arizona Water Banking Fund (Water Banking Fund) to fund some of ADWR expenses. The breakdown of that figure consists of:

- \$709,700
  - \$488,300 for ADWR staffing to address shortage, and
  - \$221,400 to pay for ADWR rent.
- \$500,000
  - to backfill a portion of ADWR's General Fund appropriation.

In addition to the \$1,209,700 fund transfer from the Water Banking Fund, the Arizona Water Banking Authority (AWBA) is required to assist the Arizona Navigable Stream Adjudication Commission (ANSAC) in paying for legal fees and hearing expenses. For FY2015 and

# State Legislative Issues Update

FY2016, the budget requests a transfer of \$359,300 to ANSAC and another \$200,000 for FY2016 alone. This brings the total in AWBA transfers to \$1,769,000.

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## Multi-Species Conservation Program (MSCP) Funding

*Support the Arizona Game and Fish Department's efforts to collect and maintain revenues sufficient to continue its annual contribution toward the costs of the MSCP.*

### Status as of March 25, 2015:

Arizona law authorizes the Arizona Game and Fish Commission to collect surcharges on Colorado River special use permits for Nevada and California licensees (A.R.S. 17-345) and to charge additional boater registration fees (A.R.S. 5-321) in order to generate enough revenues to make its annual contribution to the MSCP.

In prior years, the Arizona Game and Fish Department's (AZGFD) annual payment of \$350,000 to MSCP has been included as a special line item under AZGFD's section of the state budget. In the FY2016 budget, however, that line item was incorporated into the department's overall operating budget, which was a change recommended by the Executive.

Understandably, this caused some concern regarding whether AZGFD would continue making its MSCP payment. After some discussion with AZGFD representatives, CAP has been assured that the department intends to make its annual contribution despite the change in the budget. Staff is seeking to follow up with AZGFD to document this commitment.

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## Arizona Water Protection Fund

*Monitor the status of the Arizona Water Protection Fund and efforts to maintain sufficient levels of funding.*

### Status as of March 25, 2015:

*Update:*

The FY2016 budget does not contain an appropriation for Arizona Water Protection Fund (AWPF). In addition, Sen. Griffin's S.B. 1147, which had proposed to appropriate \$500,000 to the AWPF, no longer contains provisions related to the AWPF.

# State Legislative Issues Update

On March 18, the Senate Appropriations Committee adopted a strike-everything amendment to S.B. 1147 and the bill now contains legislative authorization for the AWBA to use stranded, unencumbered monies located in a Nevada interstate banking subaccount for Indian firming purposes. According to the AWBA, a total of \$237,386.13 is available that could be used to store 1,324 AF of water at current CAP prices.

As background, the settlement agreement with the Gila River Indian Community (GRIC) in 2004 requires the AWBA to establish the Southside Replenishment Bank to protect the GRIC from nearby, off-reservation pumping. AWBA is required to firm 15,000 AF for this purpose and, to date, has stored 10,000 AF of that obligation.

The House passed the bill, 59-0, on March 25, and awaits further action by the Senate.

**CAP Position: SUPPORT**

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## **Hualapai Water Rights Settlement**

*Monitor legislation necessary and appropriate to implement the Hualapai settlement.*

**Status as of March 25, 2015:**

No update to report at this time.

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## **Central Arizona Groundwater Replenishment District (CAGRDR)**

*Monitor any proposed legislation to the Central Arizona Groundwater Replenishment District to ensure CAGRDR operations are not negatively impacted.*

**Status as of March 25, 2015:**

**H.B. 2361 assured water supply; alternative certificate**, sponsored by Rep. T.J. Shope, provides a market alternative to CAGRDR membership for purposes of demonstrating an assured water supply.

H.B. 2361 did not receive a hearing in the House Agriculture, Water & Lands Committee, and is dead.

**CAP Position: MONITOR**

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# State Legislative Issues Update

## Arizona Water Resources

*Monitor any new efforts to address in-state and interstate water resources. Support legislation as needed to implement multistate agreements relating to the Colorado River.*

### Status as of March 25, 2015:

No update to report at this time.

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## OTHER LEGISLATION OF INTEREST

**S.B. 1330 prohibited activities; second amendment violations** – Sponsored by Sen. Kelli Ward, S.B. 1330 prohibits state agencies and political subdivisions from aiding the federal government in enforcing any federal act, law, order, rule, or regulation regarding a personal firearm, firearm accessory or ammunition. The bill also establishes penalties for noncompliance and includes a provision that would stop the State Treasurer from transferring monies to a political subdivision that violated the above prohibition.

CAP is required to follow federal requirements regarding firearms, which includes disallowing a person to carry a gun onto CAP property. CAWCD is required by federal law and its contracts with the U.S. to manage all CAP property in compliance with federal law. CAP compliance with the bill's provisions would breach its federal contracts, and the requirement in the bill to withhold monies at the Treasurer's Office for noncompliance is particularly problematic for CAP.

S.B. 1330 passed the House Military Affairs and Public Safety Committee, 5-3, on March 19, and awaits action in the Rules Committee.

### **Recommended Position: AMEND AND MONITOR**

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**H.B. 2161 central Arizona project; board membership**, sponsored by Representative Albert Hale would add a nonvoting tribal representative to the CAWCD Board.

The bill did not receive a hearing and is dead.

### **CAP Position: MONITOR**

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**H.B. 2297 state agency rulemaking; restrictions**, sponsored by Representative Eddie Farnsworth, prohibits an agency from adopting any rule that would increase regulatory restraints or burdens on the free exercise of property rights or the freedom to engage in lawful business, unless the rule is part of an overall effort to reduce regulatory burdens or it

# State Legislative Issues Update

is strictly ministerial. CAP may be adversely impacted by this bill from the standpoint of ADWR's restriction on rulemaking. CAP, like other water interests, relies on ADWR's regulation of several water functions, including—but not limited to—the administration of Assured Water Supply and underground storage facilities. This bill could impair ADWR's ability and flexibility to regulate these necessary water functions in the state.

*Update:*

H.B. 2297 passed the Senate Government Committee, 4-3, on March 11, as well as the Rules Committee on March 16. The bill awaits a vote by the full Senate.

**CAP Position: OPPOSE**

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**H.B. 2393 water settlement act; replenishment formula** – Representative Frank Pratt introduced legislation that makes technical changes to A.R.S. 45-2622, which provides the calculation that determines whether the Arizona Water Banking Authority must replenish groundwater as required by the Gila River Indian Community Water Settlement Program. ADWR is proposing to make these technical corrections to the statutory formulas so that groundwater replenishment occurs in a manner required by the settlement agreement.

*Update:*

H.B. 2393 passed the Senate, 28-0, on March 24, and awaits signature of the Governor.

**CAP Position: SUPPORT**

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**H.B. 2417 annual pesticide report; submission date STRIKER: health care providers; payments; deductibles** – H.B. 2417 was subject to a strike-everything amendment in the Senate Health and Human Services Committee on March 18 relating to health care direct payments. The amendment specifies that, if a health insurance enrollee pays the direct pay price to a health care provider or facility for a lawful health care service, the amount paid by the enrollee must be applied to their in-network deductible regardless of whether the provider or facility is a contracted network provider for the enrollee's health care plan. As CAP has a self-insured health care plan and no longer pays for out-of-network care, CAP would be negatively impacted by the amendment. It is estimated that the financial impact would be approximately \$200,000 annually.

With permission of the Board President and Public Policy Committee Chairwoman, CAP staff drafted amendment language for the bill to exempt CAP from its provisions, and scheduled a meeting with the Chairman of the committee, Sen. Nancy Barto, to ascertain her willingness to include the amendment.

# State Legislative Issues Update

H.B. 2417 is awaiting Floor action.

**Recommended Position: AMEND AND MONITOR**

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**H.B. 2445 desalinization; study committee** – Representative Steve Montenegro introduced legislation that would establish a 9-member study committee on desalinization. The committee is comprised of two members of the House of Representatives, two Senators; a person who has experience with the Yuma Desalting Plant; a person who has experience with other desalinization projects; and a faculty member from each of the state's universities (University of Arizona, ASU, and NAU) who have expertise in hydrology, desalinization or a related field. Findings and recommendations are due to the Governor, House Speaker, and Senate President by December 31, 2015.


*Update:*

H.B. 2445 did not receive a hearing in the Senate Water & Energy Committee, and is dead.

**CAP Position: SUPPORT + Seek Amendment to include CAP on the committee.**

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***If you have any questions or would like more information regarding any of the issues contained in this report, please contact CAP Strategic Initiatives & Public Policy, 623-869-2150.***



**State Legislative  
Update**



**Public Policy Committee  
April 2, 2015**

**Bridget Schwartz-Manock  
Legislative Affairs Manager  
Strategic Initiatives & Public Policy**

**Legislative Update**

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- State budget has been adopted.
- The deadline to hear bills in committee has passed.
- As of March 25, 175 bills have passed, and 60 were signed by the Governor.
- Legislature is winding down, but there are still more than 300 bills alive.
- Best estimate for adjournment sine die is the second week of April.



## Extension of CAP 4-Cent Tax Authority

- H.B. 2661 has made it through Senate Rules and Caucus.
- Last remaining steps:
  - calendaring for a final vote by the full Senate.
  - passage by the Senate.
  - a pro forma transferal back to the House and then to the Governor.
  - signature by the Governor.





## CAGRD Member Land De-Enrollment

- CAP staff identified an opportunity to have CAGRD Member Land de-enrollment language added onto H.B. 2325.
- On March 18, the Senate Finance Committee adopted the CAGRD amendment to the bill.
- H.B. 2523 awaits a vote by the full Senate.



## Arizona Department of Water Resources Funding

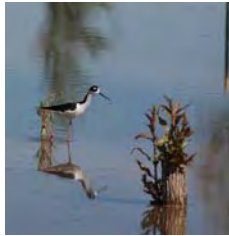
*Monitor the Legislature's budgeting processes and agency rulemaking to ensure an adequate level of funding for the Arizona Department of Water Resources' is maintained.*

- The adopted state FY2016 budget authorizes \$14,946,900 in spending for ADWR, a 5% increase over this year. There is also an increase of 4 FTEs.
- The budget requires \$1,209,700 in ADWR funding to come from the Arizona Water Banking Fund.
- AWBA is also required to transfer a total of \$559,300 to the Arizona Navigable Stream Adjudication Commission to help pay for legal fees and hearing expenses.



## Multi-Species Conservation Program (MSCP) Funding

*Support the Arizona Game and Fish Department's efforts to collect and maintain revenues sufficient to continue its annual contribution toward the costs of the MSCP.*



- The FY2016 budget does not include a line item appropriation for MSCP under G&F's section of the budget as in prior years.
- CAP staff has since reached out to G&F officials and they have indicated their intent to make the \$350,000 annual contribution to MSCP despite the change in the budget.
- The surcharges and additional fees the G&F Commission charges are dedicated to the MSCP by statute.



## Arizona Water Protection Fund

*Monitor the status of the Arizona Water Protection Fund and efforts to maintain sufficient levels of State funding.*

- The FY2016 budget does not contain an appropriation for the Arizona Water Protection Fund (AWPF).
- Sen. Griffin's S.B. 1147, which had proposed to appropriate \$500,000 to the AWPF, no longer contains that provision.
- S.B. 1147 was amended to include legislative authorization for the AWBA to use certain stranded funds for Indian farming purposes.
- The bill passed the House, 59-0, and awaits further action by the Senate.
- **CAP Position: SUPPORT**



## Legislation of Interest – Update

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### **H.B. 2297 *state agency rulemaking; restrictions***

- H.B. 2297, sponsored by Rep. Eddie Farnsworth, prohibits state agencies such as ADWR from adopting new rules that increase regulatory restraints or burdens on property rights or business.
- CAP's concern is with the bill's effect on ADWR's ability to effectively regulate and administer water programs (e.g. Assured Water Supply rules) in the state.
- H.B. 2297 passed the Senate Government Committee, 4-3, on March 11, and awaits a vote by the full Senate.
- **CAP Position: OPPOSE**



## Legislation of Interest - Update

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### **H.B. 2393 *water settlement act; replenishment formula***

- Rep. Pratt's bill makes technical corrections to the statutory calculation for AWBA's firming obligation to the Gila River Indian Community.
- H.B. 2393 passed the Senate Water & Energy Committee, 7-0, on March 2, and Caucus on March 17.
- The bill passed the Senate, 28-0, awaits signature of the Governor.
- **CAP Position: SUPPORT**



## Legislation of Interest - Update

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### **H.B. 2445 *desalinization; study committee***

- Rep. Montenegro's bill establishes a 9-member study committee on desalinization.
- H.B. 2445 did not receive a hearing in the Senate Water & Energy Committee, and is dead.
- **CAP Position: SUPPORT and AMEND to include CAP on the study committee**



## Legislation of Interest – New Bill

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### **S.B. 1330 *prohibited activities; second amendment violations***

- S.B. 1330, sponsored by Sen. Kelli Ward, prohibits political subdivisions from enforcing any federal act, law, order, rule, or regulation regarding firearms.
- The bill also includes a provision to stop the State Treasurer from transferring monies to a political subdivision that violated the prohibition.
- CAWCD is required to manage all CAP property in compliance with federal law.
- The bill's requirement to withhold monies at the Treasurer's Office for noncompliance is particularly problematic for CAP.
- S.B. 1330 has passed committee and awaits action in Rules.
- **Recommended Position: AMEND AND MONITOR**



## Legislation of Interest – New Bill

### ***H.B. 2417 annual pesticide report; submission date STRIKER: health care providers; payments; deductibles***

- H.B. 2417 was subject to a strike-everything amendment relating to health care direct payments.
- The amendment specifies that the direct pay price paid to a health care provider must be applied to their in-network deductible regardless if the services were provided out-of-network.
- CAP's self-insured health care plan no longer pays for out-of-network care, so the negative fiscal impact to CAP would be approximately \$200,000 annually.
- Staff has drafted amendment language to exempt CAP from its provisions. H.B. 2417 is awaiting Floor action.
- **Recommended Position: AMEND AND MONITOR**



YOUR WATER. YOUR FUTURE.

Questions?