

# A Capital Effort Bar Blocks and Boosts Bills

by Ron Johnson

*On Thursday, May 10, the Arizona Legislature adjourned its 2001 session. The session lasted 123 days, making it the 14th-longest regular session in state history. In that time, numerous pieces of legislation of interest to lawyers were considered, and the Bar was once again successful in representing the goals of the profession.*

THE 2001 LEGISLATIVE SESSION featured the introduction of 1,261 bills, memorials and resolutions. Of these proposals, 416 bills and 16 resolutions were passed (the number of bills passed was the fourth-highest total in history.) The Governor broke her previous record of 22 vetoes, with 28 vetoes this year. After accounting for the vetoes, the number of bills signed or filed was reduced to 388.

## Calm Seas at the Capital

Although the Legislature encountered some relatively contentious moments toward the end of session, the overall tone was much more collegial than in years past. The even split between Democrats and Republicans in the Senate helped force both parties to work with each other in an unprecedented way. In addition, legislators from both houses made restoring public confidence in the Legislature a top priority following last year's alt-fuels disaster.

Because this was a budget year in the biennial budget process, much of the Legislature's attention was focused on funding issues. A relatively large bipartisan consensus placed mental health funding, state employee raises and an increase in the number of Department of Public Safety officers as the top three priorities. Although all three issues received substantial increases, the additional funding for mental health was trimmed somewhat by a line-item veto, and the five percent raise for state employees was delayed until next April.

Other significant enactments included the creation of "safe havens," where unwanted newborn babies can be placed, and the repeal of the "archaic sex laws." Some noteworthy changes in criminal law also were approved to lower the blood alcohol limits for DUI convictions from .10 to .08 and from .18 to .15 for extreme DUI. Finally, a new criminal law change also was made to exclude mentally retarded persons from receiving the death penalty.

## "Block That Bill!"

The State Bar of Arizona had another busy but successful year in getting its legislation passed and in protecting its interests. This session featured a large number of bills that would have negatively affected the State Bar and the judiciary if enacted.

The Bar reacted to legislative attacks on the legal profession and the judiciary by opposing 11 pieces of legislation. Some of those bills would have:

- created a **sales tax on legal services** (HB 2495)
- removed the Supreme Court's **rule-making authority**

(HCR 2013)

- unconstitutionally infringed on the Character and Fitness Committee's **authority to determine who can practice law** (HB 2443)
- placed a cap on the total combined **number of superior court judges and commissioners** (HB 2224)
- created a process by which superior court **judges would be appointed by county supervisorial districts** (HCR 2007)

Other important bills that were opposed by the State Bar and defeated included a bill (SB 1521) and a striker late in the session (SB 1118 S/E) that would have **removed most of the immunity from liability for court-appointed personnel**. Although the bill was aimed at child-custody evaluators, it was drafted so broadly that it would have had the practical effect of preventing court-appointed advocates from serving as guardian ad litem or indigent defense counsel.

An effort to "uncover" large numbers of state employees, thereby making them "at-will" employees, was introduced on HB 2603 as well as on a strike-everything amendment to SB 1034. One of the unintended consequences of this legislation would have been to make administrative law judges at the Industrial Commission "at-will" employees, thereby compromising the appearance, if not the reality, of their judicial independence. The Bar successfully worked to pass an amendment that would have prevented these ALJs from being uncovered if this legislation had passed. Both bills, however, ultimately died.

The State Bar also opposed two resolutions (HR 2003 and SR 1001) that would **block pay raises for elected state officials and judges**. They were the result of a legislative attempt to reduce the amount of the original state budget in light of declining revenue projections. HR 2003 was eventually stalled in the House, but SR 1001 passed the Senate with one vote to spare. Because of the nature of this resolution, the legislation became effective without the approval of the House of Representatives or the Governor.

Despite the setback on judicial pay raises, **the State Bar maintained its extremely successful track record by defeating 10 of the 11 bills and resolutions to which the organization was opposed**. This accomplishment is even more significant when one considers that over the past three years, out of the numerous bills and resolutions that the State Bar has opposed, only one has passed into law.

## Creating New Law

In addition to the many pieces of legislation that the State Bar worked to defeat, it was also instrumental in passing some significant legislation during the session. For example, **the Probate Section's bills relating to the Uniform Probate Act** (HB 2279) and **Deeds Effective on Owner's Death** (HB

For a helpful chart that tracks these and other bills, go to [www.azbar.org](http://www.azbar.org) and click on Legislative Wrap-Up and "Positions on Bills."


**2280) were both passed** and signed into law this session. In addition, **the State Bar succeeded in getting confirmed all of its nominees** to the Maricopa and Pima County Commissions on Trial Court Appointments and the Commission on Appellate Court Appointments.

The State Bar and the Arizona Bar Foundation were successful in working to pass HB 2439, which provides **an additional \$200,000 in general fund appropriations for legal advocacy to domestic violence victims** in each of the next two years. The existing funding of previously successful Bar legislative efforts was also preserved in this year's budget. These programs include \$100,000 for the Elder Law Hotline and \$1 million in TANF (welfare) funds for legal advocacy for domestic violence victims.

The Bar supported the Supreme Court's **effort to increase juror pay** (HB 2273 and SB 1009) and the Attorney General's bill to **provide funding for capital indigent defense cases in rural counties** (SB 1486). Both bills were eventually unsuccessful due in large part to financial concerns; the proposal advocates, however, have promised to bring them back next year.

It is also significant to note the passage of SB 1500, which gives commercial real estate brokers lien rights against property for unpaid compensation for lease or rental transactions. Although the State Bar took no position on that legislation, **the Real Property Section provided valuable technical assistance** that was used to make critical amendments that are now incorporated in the bill.

Finally, important changes were made to the **exemptions allowed in the debt collection process**, including bankruptcy proceedings (SB 1175). These changes increase the fair market value exemption for a motor vehicle from \$1,500 to \$5,000 and the exemption for individuals who are disabled from \$4,000 to \$10,000. The effective date for this legislation and all other legislation, except those with emergency clauses or specified effective dates, is August 9.

As preparations begin for next year's regular session, the State Bar will continue to remain vigilant in defending attacks against the legal profession and the judiciary. 

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