

MCCFA Legislative Update, March 7, 2016

By Mike Bielecki, MCCFA Lobbyist

Introduction

The 2016 Arizona Legislative Session begins January 11, 2016. We are now half way over if the session goes to its targeted length of 100 days. There is speculation that the session may be shorter. Both President Andy Biggs and Speaker David Gowan have both declared as candidates for Congress, in different districts.

NOTE: Although bills which have not been passed out the house of origin at this point are now “dead”, there are other mechanisms to revive issues through various amendment processes. Issues can always find a way through the process if there is support on the floor.

Below are several issues which have already obtained a level of momentum for 2016 or have seen some action.

Guns on Campus 2016

Several bills allowing guns on campus have been filed. Although your MCCFA has fought the gun lobby’s repeated attempts to diminish the right of our colleges to manage guns on campuses, the tragedy at Umpqua Community College in Oregon and the shooting at NAU have recently empowered gun advocates to call for guns on campus as the solution. More guns, more challengers to bad guys, they argue. Reality is not so clear. Trained NYPD Officers’ hit rate on targets involved in a shooting incident with an armed target between 1998 and 2006 was 18%, missing 82% of the time. Where do the misses go?

Over the last four years the MCCFA has been a lead opponent in fighting the guns on campus movement. It is clear that without the MCCFA a campus carry bill would have passed and become law. MCCFA political relationships through the FACPAC has helped significantly creating momentum in stopping guns on campus legislation.

Gun Bills

H2072	FIREARMS; UNIVERSITY; COLLEGE; CAMPUS
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The prohibition on entering any public establishment while carrying a deadly weapon does not apply to a faculty member or registered student of a public university, college or community college who is carrying or transporting a firearm on the property if the person possesses a valid concealed weapons permit and is registered with the institution's administration indicating that the person is armed and possesses a valid concealed weapons permit. Public universities, colleges or community colleges are prohibited from adopting or enforcing any policy or rule that restricts or prohibits a faculty member or registered student from carrying or transporting a firearm on the property if the person possesses a valid concealed weapons permit and is registered with the institution's administration.

ARS Titles Affected: 13

First sponsor: Rep. Borrelli

Others: Sen. Barto, Rep. Barton, Rep. Boyer, Rep. Campbell, Rep. Cobb, Rep. Fann, Sen. D. Farnsworth, Rep. Finchem, Rep. Kern, Rep. Leach, Sen. Lesko, Rep. Livingston, Rep. Mitchell, Rep. Montenegro, Rep. Petersen, Rep. Shope, Rep. Townsend

Note: This bill’s sponsor, Rep. Borrelli sits on the House Judiciary Committee and could have had a hearing on the bill before the deadline. He chose not to. We worked to delineate the complexity of the issue and possible unintended consequences. Rep. Borrelli sees college campuses as ‘free fire zones’ for bad guys with guns. He is willing to consider information on this bill but we may see it again this session or next session.

H2072 Daily History	Date	Action
FIREARMS; UNIVERSITY; COLLEGE; CAMPUS	1/28	referred to House jud.

H2338 EDUCATIONAL INSTITUTIONS; FIREARMS; RIGHTS-OF-WAY

The governing board of an educational institution is prohibited from adopting or enforcing any policy or rule that prohibits the lawful possession or carrying a deadly weapon on a "public right-of-way" (defined) by a person or within a person's means of transportation. AS PASSED HOUSE.

ARS Titles Affected: 13

First sponsor: Rep. Townsend

Others: Sen. S. Allen, Rep. Borrelli, Sen. Burges, Rep. Campbell, Sen. D. Farnsworth, Rep. Finchem, Sen. Griffin, Sen. Kavanagh, Rep. Lawrence, Rep. Leach, Rep. Livingston, Rep. Lovas, Rep. Thorpe

NOTE: Measure was originally sponsored by the member(s) shown here. If it has been changed by amendment the sponsor(s) may or may not still support the measure.

Note: As introduced in the House, H2338 would have allowed campus carry of guns on “any means of transportation” on campus roads or “paths”. Consider bikes with guns in bike pouches, and the practice of students bringing their bikes into class rooms. This bill posed some real concerns for the proliferation of guns on campus. It would have required a concealed carry permit to do so. Those permits are little more than a background checks and one 4 hour training class. The person transporting a gun would also have had to register with the college that they had a concealed carry permit.

MCCFA negotiated an amendment with the Citizens Defense League to H2338 to specify colleges and universities retain their authority on land they have today. We must thank Bob Robson and other moderate Republican legislators for supporting our position.

H2338 Daily History	Date	Action
EDUCATIONAL INSTITUTIONS; FIREARMS; RIGHTS-OF-WAY	3/3	referred to Senate gov.
EDUCATIONAL INSTITUTIONS; FIREARMS; RIGHTS-OF-WAY	2/29	passed House 35-24 ; ready for Senate.
EDUCATIONAL INSTITUTIONS; FIREARMS; RIGHTS-OF-WAY	2/24	House COW approved with floor amend #4523 .
EDUCATIONAL INSTITUTIONS; FIREARMS; RIGHTS-OF-WAY	2/22	from House rules okay.
EDUCATIONAL INSTITUTIONS; FIREARMS; RIGHTS-OF-WAY	2/17	from House jud do pass.
EDUCATIONAL INSTITUTIONS; FIREARMS; RIGHTS-OF-WAY	1/25	referred to House jud.

1266 FIREARMS; STATE PREEMPTION; PENALTIES

Any ordinance, regulation, tax or rule that violates statute limiting political subdivisions regulating firearms is invalid and subject to a permanent injunction against the political subdivision from enforcing the ordinance, regulation, tax or rule. If a court determines the violation was knowing and willful, the court is permitted to assess a civil penalty of up to \$50,000 against the political subdivision. If a court determines a person in their official capacity has knowingly and willfully violated these requirements, the person may be subject to termination from employment to the extent allowable under state law. A person or organization whose membership was adversely affected by an act is permitted to file a civil action for declaratory and injunctive relief and actual damages against the political subdivision in any court having jurisdiction over any defendant. The court is required to award the

prevailing plaintiff in any civil action reasonable attorney fees and the actual damages incurred, up to \$100,000.

ARS Titles Affected: 13

First sponsor: Sen. Smith

Others: Sen. S. Allen, Sen. Begay, Sen. Biggs, Rep. Borrelli, Sen. Burges, Sen. D. Farnsworth, Rep. Finchem, Rep. Gowan, Sen. Griffin, Sen. Kavanagh, Rep. Kern, Sen. Lesko, Sen. McGuire, Rep. Mesnard, Rep. Mitchell, Rep. Montenegro, Sen. Shooter, Rep. Thorpe

Note: S1266, which has cleared the Senate, is an example where the gun carry rights law in Arizona has gone for other political subdivisions. The state is controlling other political subdivisions policies and will begin to penalizing local jurisdictions for violation of state law in this area. This bill does not change the jurisdiction of community colleges to manage guns on campus. You can see though where the system is going with respect to other local government jurisdictions.

S1266 Daily History

	Date	Action
FIREARMS; STATE PREEMPTION; PENALTIES	3/1	referred to House jud.
FIREARMS; STATE PREEMPTION; PENALTIES	2/18	passed Senate <u>18-11</u> ; ready for House.
FIREARMS; STATE PREEMPTION; PENALTIES	2/11	Senate COW approved.
FIREARMS; STATE PREEMPTION; PENALTIES	2/9	stricken from Senate consent calendar by Quezada.
FIREARMS; STATE PREEMPTION; PENALTIES	2/9	from Senate rules okay.
FIREARMS; STATE PREEMPTION; PENALTIES	2/8	to Senate consent calendar.
FIREARMS; STATE PREEMPTION; PENALTIES	2/4	from Senate gov do pass.
FIREARMS; STATE PREEMPTION; PENALTIES	2/3	from Senate pub-mil-tech do pass.
FIREARMS; STATE PREEMPTION; PENALTIES	1/26	referred to Senate gov, pub-mil-tech.

Pensions 2016

Our pensions are at risk. Why? The Arizona Public Safety Personnel Retirement System (PSPRS) is in real crisis challenging local governments and employees. If the crisis in PSPRS is not resolved, we may be damaged by broader proposals. Without a real solution limited to PSPRS a far broader Arizona Constitutional amendment applying to all public employee pensions including ASRS may authorize opened cuts by the legislature year after year. This has been under discussion for some time.

The Arizona Fire Fighters Union proposal went through the process very quickly. There were three pieces of legislation required to make the changes necessary to secure the future of the Public Safety System.

1. **S1428**, a bill that authorizes numerous complex changes and cuts to the PSPRS to stabilize its financial position over the next 20 years. This bill has been passed and is signed by the Governor. It is not effectuated yet, as its enactment is “conditional”, awaiting the ballot proposition passage by the voters in May of this year.
2. **S1429**, a bill which authorized the public election which will amend the Constitution to allow the provisions of S1428 to go into effect.
3. **SCR1019**, a resolution which sends to the voters a proposed amendment to the Arizona Constitution, to authorize the specific provisions of S1428

As this legislative process moved forward, the MCCFA fought attempts to put add the ability to invoke cuts in the ASRS into SCR1019. The proponents of that position were the Arizona Tax Research Association and they lobbied energetically for it.

Note: Voter approval at the May election of SCR1019 is vital to faculty interests. There is no plan “b” if the PSPRS proposal fails at the ballot. It is generally acknowledged that if SCR1019 fails, solutions will likely affect all pension systems through a more sweeping constitutional fix.

Other Pension Bills

H2160

ASRS; ELIGIBLE ROLLOVERS

The list of contributions for the payment of credited service purchases that the Arizona State Retirement System Board is permitted to accept is modified to include "direct transfers from" an individual retirement account or individual retirement annuity of an amount that would otherwise be eligible to be rolled over to ASRS, instead of a "rollover contribution of that portion of a distribution" from those types of accounts.

ARS Titles Affected: 38

First sponsor: Rep. Thorpe

H2160 Daily History

Date Action

ASRS; ELIGIBLE ROLLOVERS 3/2 from Senate fin do pass.
 ASRS; ELIGIBLE ROLLOVERS 2/18 referred to Senate fin.
 ASRS; ELIGIBLE ROLLOVERS 2/16 passed House 60-0; ready for Senate.
 ASRS; ELIGIBLE ROLLOVERS 2/8 from House rules okay. To House consent calendar.
 ASRS; ELIGIBLE ROLLOVERS 1/28 from House gov-higher ed do pass.
 ASRS; ELIGIBLE ROLLOVERS 1/28 House gov-higher ed do pass; report awaited.
 ASRS; ELIGIBLE ROLLOVERS 1/21 referred to House gov-higher ed.

H2157

ASRS; POLITICAL SUBDIVISION ENTITIES

Employees of "political subdivision entities" (defined in statute) who are hired on or after the effective date of this legislation are excluded from membership in the Arizona State Retirement System.

ARS Titles Affected: 38

First sponsor: Rep. Ugenti-Rita

Note: This bill stops new entrants into the ASRS, new employees to entities which are created by political subdivisions such as the League of Arizona Cities and Towns or the Maricopa Association of Governments.

H2157 Daily History

Date Action

ASRS; POLITICAL SUBDIVISION ENTITIES 2/11 House COW approved.
 ASRS; POLITICAL SUBDIVISION ENTITIES 2/9 stricken from House consent calendar by Larkin.
 ASRS; POLITICAL SUBDIVISION ENTITIES 2/8 from House rules okay. To House consent calendar.
 ASRS; POLITICAL SUBDIVISION ENTITIES 2/4 from House gov-higher ed do pass.
 ASRS; POLITICAL SUBDIVISION ENTITIES 1/25 referred to House gov-higher ed.

H2512

PENSION CONTRIBUTIONS; EXPENDITURE LIMIT EXEMPTION

Any payment to the Public Safety Personnel Retirement System made by a county or municipality against the county's or municipality's unfunded accrued liability is excluded from the county's or municipality's expenditure limitation established by the state Constitution. AS PASSED HOUSE.

ARS Titles Affected: 38

First sponsor: Rep. Coleman

Others: Rep. Boyer, Rep. Campbell, Rep. Fann, Rep. Olson, Rep. Shope, Rep. Thorpe

H2512 Daily History

Date Action

PENSION CONTRIBUTIONS; EXPENDITURE LIMIT EXEMPTION 2/24 from Senate fin do pass.
PENSION CONTRIBUTIONS; EXPENDITURE LIMIT EXEMPTION 2/23 referred to Senate fin.
PENSION CONTRIBUTIONS; EXPENDITURE LIMIT EXEMPTION 2/18 passed House 39-18; ready for Senate.
PENSION CONTRIBUTIONS; EXPENDITURE LIMIT EXEMPTION 2/17 House COW approved with amend #4102.
PENSION CONTRIBUTIONS; EXPENDITURE LIMIT EXEMPTION 2/16 from House rules okay.
PENSION CONTRIBUTIONS; EXPENDITURE LIMIT EXEMPTION 2/4 from House gov-higher ed with amend #4102.
PENSION CONTRIBUTIONS; EXPENDITURE LIMIT EXEMPTION 2/4 House gov-higher ed amended; report awaited.
PENSION CONTRIBUTIONS; EXPENDITURE LIMIT EXEMPTION 1/28 House gov-higher ed held.
PENSION CONTRIBUTIONS; EXPENDITURE LIMIT EXEMPTION 1/25 referred to House gov-higher ed.

HCR2040: STATE MONIES; PROHIBITED INVESTMENTS; TERRORISM

The 2016 general election ballot is to carry the question of whether to amend the state Constitution to prohibit the state, public retirement systems, counties, municipalities and other political subdivisions from contracting with or investing in any legal entity that is invested in or doing business with the government of a country that is designated by the U.S. Department of State on or after January 1, 2015 as a state sponsor of terrorism. Any contract or investment in violation cannot be renewed and must be cancelled or divested at the earliest prudent opportunity. Some exceptions.

ARS Titles Affected: 98

NOTE: Measure was originally sponsored by the member(s) shown here. If it has been changed by amendment the sponsor(s) may or may not still support the measure.

General Comments (all lists):

HCR2040 Daily History

Date Action

STATE MONIES; PROHIBITED INVESTMENTS; TERRORISM 3/1 retained on House COW calendar.
STATE MONIES; PROHIBITED INVESTMENTS; TERRORISM 2/25 retained on House COW calendar.
STATE MONIES; PROHIBITED INVESTMENTS; TERRORISM 2/24 retained on House COW calendar.
STATE MONIES; PROHIBITED INVESTMENTS; TERRORISM 2/22 from House rules okay.
STATE MONIES; PROHIBITED INVESTMENTS; TERRORISM 2/11 from House gov-higher ed do pass.
STATE MONIES; PROHIBITED INVESTMENTS; TERRORISM 2/11 House gov-higher ed do pass; report awaited.
STATE MONIES; PROHIBITED INVESTMENTS; TERRORISM 2/3 referred to House gov-higher ed.

Community College Funding

The 2015 legislative session authorized a special interim legislative committee to gather information and to discuss community college funding and how the student count calculations affect such funding. Salina Bednarek and Danny Donahue attend a number of these meetings. The committee a number of possible changes some bad and some that could improve MCCD finances. The positive proposals discussed included:

- Changing the 1979/80 Base Year for calculating inflation. The base year should be adjusted it would generate more funding, but not likely to happen.
- The basis for Full Time Student Count (FTSE) does not reflect the cost of dealing with over 200,000 students. MCCD serves nearly 3 times as many students as FTSE computes to; the ratio was only 2 times in 79/80. This will be tough to pass, but should be pursued.
- Stop income from Community Colleges contracts, such as the Corporate College receives, from being counted as tax income as it is today. This may have the best chance of passing of the new ideas advanced.

The study committee hearings resulted in a bill this session, S1322, which would give community colleges some possible relief on expenditure limitations. See summary below:

S1322, community colleges; expenditure limitation

Prime Sponsor: Senator Allen S, LD 6

OVERVIEW

SB 1322 modifies the method for a community college district to calculate its expenditure limitation (EL).

PROVISIONS

1. Permits community college district governing boards to:
 - a. Accept grants or donations from the state, political subdivisions, tribal governments school districts and special taxing districts.
 - b. Engage in entrepreneurial and commercial activities.
 - c. Collect auxiliary fees.
 - d. Provide goods and services through a contract with a political subdivision or tribal government.
2. Determines the following to not be considered local revenues for the purposes of EL calculations:
 - a. Grants and donations.
 - b. Research and development, royalty, development, licensing and profit-sharing agreements that meet specified requirements.
 - c. Entrepreneurial and commercial activities.
 - d. Auxiliary fees.
 - e. Goods and services through a contract with a political subdivision or tribal government.
3. Prescribes the following formula for determining the number of Full Time Equivalent Students (FTSE) to use for EL calculations:
 - a. Determine the FTSE for state aid purposes.
 - b. Multiply the number of FTSE that are enrolled in Career and Technical Education (CTE) courses approved by the Arizona Department of Education in accordance with the Carl D. Perkins CTE Improvement Act of 2006 by 0.3 and add it to the previous number.
4. Requires the Auditor General (OAG) to separately audit the FTSE calculation for EL calculations, beginning in Fiscal Year 2017, and include the audit in current reporting requirements.
5. Permits community college districts to submit to the Economic Estimates Commission (EEC) one of the following FTSE estimates:
 - a. The most recent audited FTSE count for EL calculations.
 - b. The average of the five most recent audited FTSE counts for EL calculations.
 - c. A FTSE count that exceeds the most recent audited FTSE count for EL calculations by up to 5% if the actual FTSE count 45 days after classes begin in the current fall

semester exceeds the actual FTSE count after classes began in the previous fall semester.

6. Permits community college district boards, by a two-thirds vote, to refer to the voters in the district a permanent change in the Base Limit used to determine the EL.
7. Permits permanent Base Limit changes to be authorized upon the majority of the qualified electors voting at a regularly scheduled election on the first Tuesday after the first Monday in November.
8. Requires the impact of the authorization to appear on the ballot and publicity pamphlets in the same manner as an initiative to permanently adjust the EL.
9. Requires the resolution requesting the voters approve a permanent change in the Base Limit to state:
 - a. The current Base Limit used to determine the EL.
 - b. The proposed Base Limit used to determine the EL.
 - c. The increase in EL capacity generated by a change in the Base Limit for the most recent EL.
 - d. A rationale for the request to authorize a change in the Base Limit.
10. Requires an authorized change in the Base Limit to be used to determine an EL beginning in the Fiscal Year (FY) immediately following the approval by the electors.
11. Permits, as session law, community college districts to submit to EEC the average of the ten most recent audited FTSE enrollment counts until FY 2020.
12. Repeals statute relating to bookstore revenue for EL purposes.
13. Makes technical and conforming changes.

CURRENT LAW

The [Arizona State Constitution Article 9, Section 21](#), places expenditure limitations on community college districts. The EL is determined by adjusting the expenditures of local revenues in FY 1980 to reflect the changes in the student population of each district, defined as FTSE, and the cost of living. The EEC determines the EL annually and uses the Gross Domestic Product Deflator as the change in the cost of living. *Local revenues* are defined as all monies, revenues, funds, property and receipts received by the community college district except amounts or property received from:

- Bonds or long-term obligations.
- Payment of dividends, interest, refunds, reimbursements or other recoveries.
- Amounts received in the capacity of a trustee, custodian or agent.
- Grants or aid from the federal government or its agencies, private agencies or organizations or individuals.
- Goods or services pursuant to a contract with political subdivisions, school districts, community college district or the state.
- Tuition, fees or ad valorem taxes.

To determine state aid, FTSE is calculated pursuant to [A.R.S. § 15-1466.01](#) by adding the number of students enrolled as of 45 days after classes begin in the fall semester to the number of students enrolled 45 days after classes begin in the spring semester, dividing that number by two and adding additional short-term and open entry, open exit FTSE enrollments and skill center and adult basic education FTSE enrollment. OAG is annually

required to audit the FTSE counts and submit the report to the Joint Legislative Budget Committee and the Governor's Office of Strategic Planning and Budgeting by October 15.

Note: S1322 has passed the Senate and the House Committee on Government and Higher Education. It must go through the Rules Committee and pass through the floor of the House. The Arizona Tax Research Association has not and will not give up on instituting additional changes to reduce or restrain funding for the Community Colleges. Their prime mission is to cut corporate property taxes. In fact they are vigorously opposing S1322. We are in a fight for the votes on the floor now.

Other Bills

H2548 public forums; activities; postsecondary campuses

H2548 prescribes penalties for a university or community college unlawfully restricting a student's right to speak.

1. PROVISIONS

1. Specifies that a *public forum* includes both a traditional public forum and a designated public forum.
2. Permits the Attorney General or a person whose expressive rights were violated to bring action in a court of competent jurisdiction for violations of statutory public postsecondary institution free speech requirements.
 - a. Specifies that actions brought are to enjoin violations or recover compensatory damages, reasonable court costs and reasonable attorney fees.
3. Requires the court, on a finding of a violation, to award the aggrieved person injunctive relief plus reasonable court costs and attorney fees.
4. Requires action to be brought within one year of the cause of action.
 - a. Determines each day the violation persists or the policy in violation remains to constitute a new violation and is considered a day that the cause of action has accrued.
5. Makes technical changes.

2. CURRENT LAW

Universities and community colleges are prohibited from restricting a student's right to speak, including holding a sign or distributing materials, in a public forum ([A.R.S. § 15-1864](#)). The only circumstances in which a public postsecondary institution may restrict a student's speech in a public forum is if the restriction is both in furtherance of a compelling governmental interest and is the least restrictive means of furthering the compelling governmental interest.

A *public forum* is defined in [A.R.S. § 15-1861](#) to include any open, outdoor area on the campus of a university or community college and any facilities, buildings or parts of buildings that have been opened to students or student organizations for expression.

Note: H2548 has passed out of the House as amended, and is in the Senate. Credit should be given to MCCD staff, including Eddie Gena in rationalizing the bill.

Your Support

The fight for the future of Community Colleges is difficult in the state we live in. We defend the faculty and the institution that services so many so well. We fight many issues and win many those fights. We can't do it without your help though.

The MCCFA and FACPAC are vital to preserving our future in a changing world. We need your support and understanding.

“One of the penalties for refusing to participate in politics is that you end up being governed by your inferiors.” Plato