



**ARIZONA STATE SENATE**  
*Fifty-First Legislature, First Regular Session*

**FINAL REVISED**  
FACT SHEET FOR H.B. 2578

licensing; accountability; penalties; exceeding regulation

Purpose

Prescribes civil penalties for employees who base licensing decisions on requirements not specifically authorized by applicable statute, rule, ordinance or code.

Background

Statute defines a *license* as the whole or part of any municipal, county, agency or flood control district permit, certificate, approval, registration, charter or similar form of permission required by law and, in the case of a license issued by an agency, does not include one required solely for revenue purposes. *Licensing* includes the process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license (A.R.S. §§ 9-381, 11-1601, 41-1001, 48-3641). Statute prohibits a municipality, county, agency or flood control district from basing a licensing decision in whole or in part on a requirement not specifically authorized by applicable statute, rule, ordinance or code (A.R.S. §§ 9-834, 11-1604, 41-1030, 48-3644). H.B. 2578 prescribes civil penalties for employees who violate these prohibitions.

Any person whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have any question of construction or validity determined by a court of record within the proper jurisdiction (A.R.S. § 12-1832). Courts of record within their respective jurisdictions have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. Such declarations have the force and effect of a final judgment or decree (A.R.S. § 12-1831). H.B. 2578 allows a person affected by an improper licensing decision to file an action for declaratory relief in superior court under these rules.

There may be a fiscal impact associated with the imposition of civil penalties for improper licensing decisions.

Provisions

1. Stipulates a municipal, county, state or flood control district employee who bases a licensing decision on a requirement not specifically authorized by applicable statute, rule, ordinance or code is subject to a civil penalty of:
  - a) \$500 for a first violation;
  - b) \$1,000 for a second violation; or
  - c) \$2,000 for a third violation.

2. Stipulates a person who is affected by a licensing decision not based on statute, rule, ordinance or code may file an action for declaratory relief in superior court.
3. Stipulates such an action for declaratory relief must be commenced no later than four years after the licensing action.
4. Stipulates these provisions do not limit the right of any party to recover attorney fees, expenses and double damages from someone who:
  - a) brings or defends a claim without substantial justification;
  - b) brings or defends a claim solely or primarily for delay or harassment;
  - c) unreasonably expands or delays the proceeding; or
  - d) engages in abuse of the discovery process.
5. Becomes effective on the general effective date.

Governor’s Veto Message

The Governor indicates in her veto message that she believes H.B. 2578 to be both punitive and unnecessary. Arizona law already prohibits agencies, counties, municipalities and flood control districts from issuing a licensing decision based on requirements not specifically authorized in statute. Well-established administrative and judicial processes also exist to remedy an improper licensing decision.

Senate Action

House Action

GE	3/21/13	DP	7-0-0-0
3 <sup>rd</sup> Read	4/4/13		16-13-1-0

GOV	2/13/13	W/D	
JUD	2/21/13	DP	8-0-0-0
3 <sup>rd</sup> Read	3/18/13		57-0-3-0

Vetoed by the Governor 4/5/13

Prepared by Senate Research  
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AW/JS/ly