

## SUMMARIES OF ATTORNEY GENERAL OPINIONS

The Secretary of State's Office is required to publish summaries of Attorney General Opinions under A.R.S. § 41-1013(B)(4). The following Attorney General Opinions were issued between July 1 and December 31, 2006. For copies of these opinions, call (602) 542-5025 or view them online at the Attorney General's web site:

<http://www.azag.gov/opinions/index.html>

Opinion Number	Date of opinion	Opinion summary
No. I06-002	August 25, 2006	<p>Re: Applications of A.R.S. § 38-503(C) to Sales of Goods or Services by School District Employees to Their Employing School Districts</p> <ol style="list-style-type: none"><li>1. To comply with A.R.S. § 38-503(C), procurements between school districts and their employees must follow the School District Procurement Code's competitive bidding procedures regardless of a procurement's total cost.</li><li>2. Arizona Revised Statutes § 38-503(C) requires public competitive bidding whenever a school district purchases goods or services from district employees, regardless of whether payment is made with student activities monies or extracurricular activities and character education program contributions.</li></ol>
No. I06-003	September 6, 2006	<p>Re: Amending Contracts of Certain School Employees to Include Monies Appropriated for Increases in Compensation of those Employees</p> <p><i>Editor's Note: A summary of the opinion for I06-003 was not included within the text of the opinion. The following is the conclusion:</i></p> <p>Previously executed contracts for the 2006-2007 school year of nonadministrative employees of school districts and charter schools may be amended to add compensation increases as a result of HB 2874, without violating either article IX, § 7 or article IV, part 2, § 17 of the Arizona Constitution.</p>
No. I06-004	October 30, 2006	<p>Re: County Meet-and-Confer Ordinances</p> <ol style="list-style-type: none"><li>1. A county may enact a meet-and-confer<sup>1</sup> ordinance provided that the ordinance does not extend beyond the scope of the statutory mandate of county authority, and that the ordinance does not deprive the county of policy-making authority.</li><li>2. The meet-and-confer process must not result in any binding collective bargaining agreement or contract because such an agreement would be an unlawful delegation of legislative authority.</li><li>3. A county may restrict the formal meet-and-confer process to the elected authorized employee representative as long as the individual county employees are allowed to communicate freely with county management and the board of supervisors on employment and personnel issues.</li></ol>
No. I06-005	November 15, 2006	<p>Re: County Fire Code Authority</p> <ol style="list-style-type: none"><li>1. Counties have the authority to enforce wildland-urban interface fire codes.</li><li>2. State or county fire codes supersede CC&amp;Rs when fire code provisions directly conflict with CC&amp;R provisions. When a fire code provision and a code CC&amp;R provisions are not in direct conflict, but rather, are both restrictive, the provision that contains the more stringent restriction will control and will establish the permitted use.</li><li>3. Existing law at the time of enactment of the CC&amp;Rs, including fire codes, is incorporated into such agreements. However, newly-enacted fire codes are not retroactively incorporated into existing CC&amp;Rs.</li><li>4. In general, counties do not have the authority to enforce CC&amp;Rs.</li></ol>

**Semiannual Index**

- 
- No. I06-006    December 1, 2006    Re: Proposition 203 Increase in State Tax on Cigarettes  
Because the text of A.R.S. § 42-3371, as added by Proposition 203, states unambiguously that the amount of the new tax is 4 cents per cigarette, the tax levied under A.R.S. § 42-3371 is 4 cents per cigarette. The unambiguous statutory language is not altered by the misprint in the ballot description.
- 
- No. I06-007    December 22, 2006    Re: The Application of Proposition 201, Smoke-Free Arizona Act, to Taxation of On-Reservation Tobacco Sales  
The tobacco tax implemented and levied under the Smoke-Free Arizona Act and new section A.R.S. § 42-3251.02 does not apply to on-reservation sales of tobacco products by tribes or tribal members<sup>1</sup> to non-tribal members. The tax does apply to on-reservation sales of tobacco products by federally licensed Indian traders or other non-tribal member to non-tribal members. Because Proposition 201 does not incorporate the provisions of Title 42, Chapter 3, Article 7 (A.R.S. §§ 42-3301 to 42-3306), neither the “direct tax on consumers” provision nor the luxury/excise tax set-off applies to the new tax.
- 
- No. I06-008    December 22, 2006    Re: The Application of Proposition 203, the Arizona Early Childhood Development and Health Initiative, to Taxation of On-Reservation Tobacco Sales  
The Tax for Early Childhood Development and Health levied under new statute A.R.S. § 42-3371 does not apply to on-reservation sales of tobacco by tribes or tribal members<sup>2</sup> to non-tribal members. It does not apply to on-reservation sales of tobacco by federally licensed Indian traders or other non-tribal members to non-tribal members. Because Proposition 203 does not incorporate the provisions of Title 42, Chapter 3, Article 7 (A.R.S. §§ 42-3301 to 42-3306), neither the “direct tax on consumers” provision nor the luxury/excise tax setoff applies to the new tax.