



# ARIZONA'S ECONOMY and THE LEGAL ARIZONA WORKERS ACT

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# Arizona's Economy and the Legal Arizona Workers Act

*a status report by*

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## PREFACE

The growth in the number of illegal immigrants in the United States has been an important issue on national, state, and local levels for the past decade. Reports and studies have been conducted by government organizations at all levels and by private sector and academic institutions. The U.S. Congress and the White House have engaged with the issue but have failed to take definitive action to confront it and have failed as well to develop an acceptable guest workers program.

Meanwhile, border states have experienced both benefits and costs associated with the increased number of illegal immigrants. On the one hand, immigrant workers have contributed to growth in both U.S. and state economies. For example, the state of Texas reported in 2006 that the presence and work of illegal immigrants had added \$17 billion to the state economy.

On the other hand, the Border Counties Coalition reported that law enforcement costs for border counties in the U.S. have grown significantly and that local governments and taxpayers have had to bear most of these increased costs. Overall, illegal immigration appears to have resulted in net fiscal benefits at the federal level and disproportionate fiscal costs at state and local levels. While it is clear that immigrants have played a critically important historical role in the economic and social development of the U.S., it is less clear what their impact is today.

This report examines the role of immigrant workers in the Arizona economy. Federal failure to enforce or reform immigration laws has led public officials in states such as Arizona to take matters into their own hands and enact measures designed to reduce illegal immigration and drive illegal immigrants from their states. In 2007, Arizona adopted the Legal Arizona Workers Act (LAWA). This law requires employers to shoulder some of the responsibility for eliminating illegal immigrants in the state. As we approach the end of 2008, it is appropriate to inquire about LAWA's impact. Has the law accomplished its goals? What effect has it had on the Arizona economy?

Over the last six months, the Udall Center for Studies in Public Policy at The University of Arizona has been trying to answer these questions. This report, written by Judith Gans, Manager of the Udall Center's Immigration Policy Program, considers LAWA and its effects in a broad, economic context. The purpose of the report is not to support a position—either pro or con—regarding the law itself but instead to provide some preliminary analysis of the impact the law has had on Arizona's economy.

The Udall Center began its research on this topic prior to the dramatic downturn in the U.S. economy that began late in the third quarter of this year. That downturn is already raising difficult issues for Arizona legislators and public officials as revenues decline and budgets tighten, and it is likely to add further heat to the discussion of illegal immigration. All the more reason, then, for leaders in both public and private sectors throughout the state to understand the full dimensions of the immigration phenomenon and its economic effects. Only through careful and systematic inquiry and open discussion can we hope to find effective policy solutions to the challenges facing Arizona and the nation as a whole.

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## INTRODUCTION

Immigration of workers and settlers into the United States has played an important role in the building of our nation. Migration played a decisive role in the development of the west, including railroads built by Asian workers and other immigrants that helped build agriculture and other industries.

The United States and, particularly, the Southwest has experience nearly unprecedented immigration from countries south of the U.S. border in recent decades. This immigration has had a both positive and negative impact on the country and its institutions. In 2007, the State of Arizona enacted new law designed to return many undocumented workers to their native countries.

This report provides a preliminary overview of the impacts of the Legal Arizona Workers Act (LAWA), in effect as of January 1, 2008. Controversial when enacted, the Legal Arizona Workers Act has withstood various legal challenges; it was amended by the Arizona state legislature to apply only to workers hired after December 31, 2007; and it withstood a ballot initiative to substitute alternative, narrower worksite enforcement provisions. While it is not yet possible to definitively measure LAWA's economic impacts, almost a full year's experience with the statute does provide some experience with the law.

## BACKGROUND

The Legal Arizona Workers Act prohibits a person or entity from knowingly hiring, recruiting, or referring for a fee, an unauthorized immigrant. LAWA classifies as a Class 3 felony the taking of another person's identity for the purposes of employment, regardless of whether the person whose identity was stolen is real or fictitious. It also requires the suspension (for a first offense) or revocation (for a second offense) of the license of an Arizona business found to have knowingly hired an unauthorized immigrant after December 31, 2007. Under the statute, an unauthorized immigrant is either a foreign born person who is not legally admitted to the United States as a lawful permanent resident or a legally-admitted foreign born person who is not authorized to work in the U.S.

This law was enacted in the face of failure by the Federal government to control illegal immigration and is based on the premise that such control requires "worksite enforcement". Enforcement at the worksite attempts to eliminate the "jobs magnet" inducing migrants to enter the country illegally by making it very difficult for illegal immigrants to work once inside the United States. While there is wide consensus that federally-enacted worksite enforcement is an important aspect of controlling illegal immigration, the ramifications of an individual state such as Arizona enacting worksite enforcement legislation are unclear and widely debated.

Statistical analysis of LAWA's economic impacts requires sufficient time to pass for "before and after" data to develop. Such data will be available in late 2009 and beyond. We want to use this report as primarily a data-collection enterprise in preparation for further research after the law has had sufficient time to be in force. To this end, information has been collected to provide some initial insights to a number of questions relating to LAWA.

1. To what extent does LAWA succeed in reducing the number of illegal immigrants in Arizona?

2. If LAWAW and other forces significantly eliminate illegal immigrant workers in Arizona, what are the economic impacts of this elimination? What are the consequences for output, employment, and profits across industries and for wages of different categories (skill levels) of workers? What are the fiscal consequences of these changes?
3. Does LAWAW affect the business climate in Arizona? Does it affect Arizona's ability to compete with other states in attracting new business investment? Does it impact other (non-wage) costs of doing business in Arizona relative to other states?
4. How does the law impact costs of providing social services such as educating English Language Learner students, health care, etc. to non-citizen foreign-born?
5. How cost-effective is employer sanctions at the state level? What are the costs per enforcement action? Is E-Verify an effective verification mechanism? Is a credible threat of enforcement sufficient to eliminate undocumented workers? Do any savings in social service costs offset enforcement costs?

What follows is summary of specific information relevant to addressing these questions. A cautionary note is of critical importance in examining these data. *No conclusions can be drawn about whether LAWAW is having a causal impact on the observed trends.* It is too soon to measure economic impacts of this law.

Because LAWAW was enacted during an economic downturn affecting immigrant-employing industries, it is particularly important to avoid making premature conclusions as to the underlying *causes* of observed trends. If, for example, illegal immigrants are leaving the state, it is too soon to determine whether this is a result of the Legal Arizona Workers Act or the result of the decline in construction activity in Arizona. Thus the information included in this report should be understood as preliminary trends in data that will subsequently be used for statistical analysis once sufficient data *are* available to examine the economic impacts of the Legal Arizona Workers Act.

## KEY DEMOGRAPHIC TRENDS

Evaluating LAWAW's effectiveness requires, first and foremost, determining whether Arizona's illegal immigrant population is declining. While, by definition, accurate data on illegal immigrants in Arizona is unavailable, reasonable statistical estimates can be derived from data available through the US Census Bureau and other sources. The following table describes trends in Arizona's foreign-born population and estimates the number of illegal immigrants in Arizona as of 2006. (The first round of American Community Survey data for 2007 will not be released until early December of 2008.)

In the short run, the task of estimating whether Arizona's (illegal) immigrant population declined after LAWAW went into effect on January 1, 2008 must be accomplished indirectly by looking at indicators such as the number of children enrolled in English Language Learner programs in Arizona's public schools, sales tax receipts, and housing vacancies in communities with large immigrant populations. And, in looking at these indicators, one must keep in mind that the *cause* of any population changes—whether declines in economic activity, LAWAW, or some other factor—cannot yet be definitively determined.



**Table 1. Arizona Population Trends (thousands)**

	2000	2004	2006	Percent Change 2000-06
<b>Total Population</b>	<b>5,134</b>	<b>5,744</b>	<b>6,166</b>	<b>20.1</b>
<b>Native Born</b>	<b>4,472</b>	<b>4,913</b>	<b>5,240</b>	<b>17.2</b>
<b>All Foreign Born</b>	<b>662</b>	<b>831</b>	<b>926</b>	<b>39.9</b>
Naturalized Citizens	195	211	270	38.5
Non-Citizens	457	620	657	43.8
Unauthorized immigrants, based on 2005 x estimate of 6.9 to 7.7% of total population <sup>1</sup>		450 to 475		

### Immigrants in Arizona's Workforce

Arizona relies significantly on immigrants for its low-skilled work force and specific sectors of the economy are particularly reliant on these workers. Fifty five percent of Arizonans without a high school education in 2004 were non-citizen immigrants. The following table lists those industries where at least 10% of workers in 2004 were low-skilled non-citizen workers along with each industry's share of Arizona's 2004 GDP.<sup>2</sup>

**Table 2. Immigrant Percentage of Workforce in Arizona**

Industry Sector	Non-Citizen Workforce <i>percent</i>	Industry Share of GDP <i>percent</i>
Manufacturing	13.3	13
Services to Business/Professions	12.4	11
Wholesale Trade	18.6	6
Construction	11.4	6
Leisure & Hospitality	14.9	4
Other Services	13.0	2
Agriculture	35.2	1
<b>Share of GDP Generated by Selected Industries</b>		<b>43</b>

We see in Table 2 that forty three percent of Arizona's GDP in 2004 was generated by industries that rely significantly on low-skilled immigrant workers, many of whom are undocumented. Pew Hispanic Center estimates that approximately 65% of unauthorized migrants participate in the labor force.<sup>3</sup> This suggests that there were between 260,000 and 292,500 unauthorized workers in Arizona in 2005 and that unauthorized immigrants represent between 7% and 8% of Arizona's population and approximately 10% of its labor force.<sup>4</sup>

<sup>1</sup> Pew Hispanic Center calculations, published in *Arizona: Population and Labor Force Characteristics, 2000-2006*, January 2008 using University of Minnesota's Integrated Public Use Micro data Series (IPUMS) for the American Community Survey and the 2000 Census. Available at: <http://pewhispanic.org/files/factsheets/37.pdf>

<sup>2</sup> Gans, Judith, *Immigrants in Arizona: Economic and Fiscal Impacts*, Udall Center for Studies in Public Policy, University of Arizona, October 2007.

<sup>3</sup> Passel, Jeffrey S. "The Size and Characteristics of the Unauthorized Migrant Population in the U.S.," Pew Hispanic Center (March 7, 2006).

<sup>4</sup> Pew Hispanic Center calculations, published in *Arizona: Population and Labor Force Characteristics, 2000-2006*, January 2008 using University of Minnesota's Integrated Public Use Micro data Series (IPUMS) for the American Community Survey and the 2000 Census. Available at: <http://pewhispanic.org/files/factsheets/37.pdf>

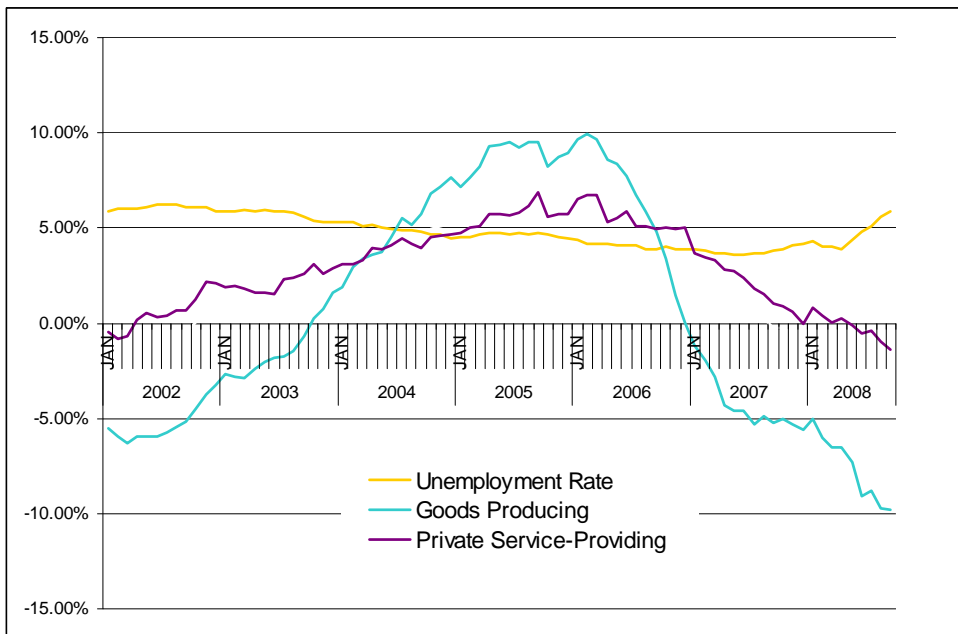


## RECENT ECONOMIC TRENDS IN ARIZONA

### Employment Trends in Arizona

A central challenge in understanding LAW A's impacts on Arizona's economy is that if disentangling overall trends in the economy from the impacts of any reductions in the workforce that may be caused by enactment and enforcement of this statute. As stated earlier in this report, there are statistical techniques for accomplishing this once sufficient time has passed for "before and after" data to develop. For now, we can report on employment trends in Arizona and in sectors that employ large numbers of immigrants. Arizona, like the rest of the country, is experiencing a significant economic downturn and some sectors reliant on immigrant labor have been particularly

**Figure 1: Year-Over-Year Change in Arizona Employment**



**September 2008:** Goods producing sectors experienced large year-over-year declines in employment with September 2008 figures 10% below those of September of 2007. A year-over-year decline of 2% in service sector employment resulted in unemployment rising to a seasonally adjusted rate of 5.9%.

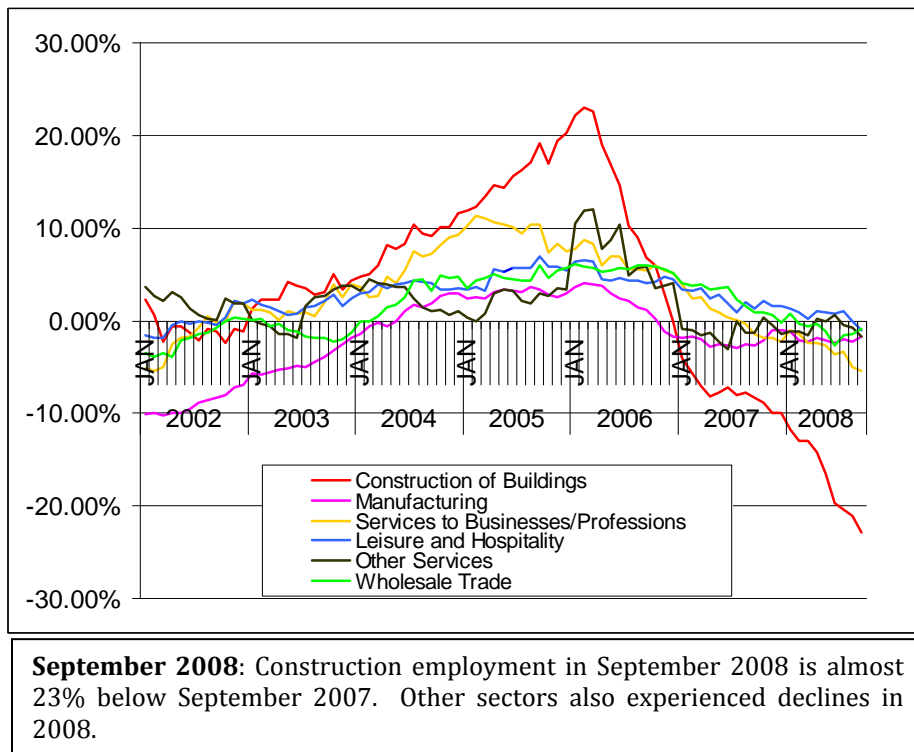
affected. Trends in the overall economy are evident in the monthly year over year change in Arizona's private employment, shown here for 2002 to 2008 along with the seasonally adjusted unemployment rate for the same time period. These data indicate that overall employment growth in Arizona began to weaken in early 2006. Year-over-year employment *declines* in goods producing sectors began in early 2007 and these declines continue to the present. Declines in service-providing employment began in early 2008. Arizona's unemployment rate grew from 3.9 percent in January 2007 to 5.9 percent in September 2008.

Table 3 on the following pages confirms widespread weakness in Arizona’s employment picture. Overall job growth slowed through August of 2007 and turned negative in September. Goods producing sectors (manufacturing and construction) had negative job growth throughout all of 2007 and 2008. The one bright spot within manufacturing was aerospace, which continued to experience employment growth throughout the period. Overall service sector employment growth began to weaken in the latter part of 2007, with year-over-year job losses beginning in May of 2008. Hardest hit in the service sector were administrative and waste services with employment declines in some sub-sectors beginning as early as February of 2007. The brightest spot in the service sector has been health services with sustained year-over-year employment growth of between 3 and almost 6 percent. Education services and leisure and hospitality have also shown positive year over year growth throughout most of this period.

### Trends in Industries with Large Immigrant Workforces

Figure 2 depicts employment trends in sectors, mentioned earlier in this report, that rely significantly on immigrant labor. Construction has been is the hardest-hit sector of the economy.

**Figure 2: Year-Over-Year Employment Changes – Immigrant Hiring Sectors**



This is also the sector (other than agriculture) with the largest reliance on low-skilled immigrant labor. Year-over-year declines in construction employment began in early 2007, but weakness in the sector was evident in early 2006 when employment growth began to slow sharply. Other sectors with large immigrant workforces have experienced more moderate employment declines since early 2008.

According to the Pew Hispanic Center, approximately 28% of Arizona's foreign-born Hispanics work in the construction industry and comprise 35% of the construction industry's workforce. Foreign-born non-citizen Hispanics are 20% of the workforce in non-durable manufacturing, 19% of the workforce in arts, entertainment, recreation, accommodations, and food services, and 18% of the workforce in other services.<sup>5</sup>

***In Brief***

Employment trends in Arizona mirror the economic downturn throughout the U.S. economy. Sectors that with significant non-citizen foreign born workforces have been hard hit. This is likely to have reduced employment among foreign-born non-citizens and undocumented immigrants. These reductions coincide with any reductions which LAWA may have caused.

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<sup>5</sup> Pew Hispanic Center, op cit, pages 8-9.

**Table 3: Recent Trends in Arizona Employment, Unemployment** (employment numbers in thousands)

Arizona Employment Trends by Major Economic Sector												
percentages are year-over-year changes in employment levels												
	2007											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<b>Unemployment Rate<sup>(1)</sup></b>	3.9%	3.8%	3.7%	3.7%	3.6%	3.6%	3.7%	3.7%	3.8%	3.9%	4.1%	4.2%
<b>Total Private Sector</b>	<b>2,220.9</b>	<b>2,242.9</b>	<b>2,259.4</b>	<b>2,249.5</b>	<b>2,254.7</b>	<b>2,255.5</b>	<b>2,225.0</b>	<b>2,235.8</b>	<b>2,234.3</b>	<b>2,239.0</b>	<b>2,249.6</b>	<b>2,252.1</b>
Year-Over-Year Change	2.74%	2.41%	2.11%	1.40%	1.30%	0.99%	0.39%	0.26%	-0.2%	-0.2%	-0.5%	-1.1%
<b>Goods Producing</b>	<b>418.8</b>	<b>421.9</b>	<b>422.7</b>	<b>419.1</b>	<b>420.2</b>	<b>424.7</b>	<b>419.9</b>	<b>420.9</b>	<b>416.8</b>	<b>412.9</b>	<b>407.2</b>	<b>404.4</b>
Year-Over-Year Change	-1.2%	-2.0%	-2.8%	-4.3%	-4.6%	-4.6%	-5.3%	-4.9%	-5.2%	-5.0%	-5.3%	-5.6%
Construction change	-1.3%	-2.9%	-4.3%	-6.1%	-6.8%	-6.6%	-7.8%	-7.5%	-8.0%	-8.1%	-9.5%	-10.1%
Manufacturing change	-1.8%	-1.7%	-1.9%	-2.8%	-2.5%	-2.7%	-3.0%	-2.6%	-2.7%	-2.1%	-1.0%	-1.1%
Aerospace change	-1.9%	3.3%	2.6%	2.6%	1.9%	2.2%	1.8%	2.2%	2.2%	2.2%	7.0%	6.2%
<b>Services</b>	<b>1,802.1</b>	<b>1,821.0</b>	<b>1,836.7</b>	<b>1,830.4</b>	<b>1,834.5</b>	<b>1,830.8</b>	<b>1,805.1</b>	<b>1,814.9</b>	<b>1,817.5</b>	<b>1,826.1</b>	<b>1,842.4</b>	<b>1,847.7</b>
Year-Over-Year Change	3.7%	3.5%	3.3%	2.8%	2.8%	2.4%	1.8%	1.5%	1.0%	0.9%	0.6%	-0.1%
Wholesale Trade	4.1%	3.8%	3.9%	3.4%	3.4%	3.6%	2.3%	1.5%	0.9%	0.9%	0.6%	-0.2%
Retail Trade	4.0%	3.7%	3.2%	3.4%	3.4%	3.2%	2.6%	2.6%	2.8%	1.8%	1.0%	-0.1%
Admin. & Waste Svc.	3.9%	2.4%	2.6%	1.3%	0.9%	0.4%	0.1%	-0.4%	-1.4%	-1.9%	-1.9%	-2.3%
Employment Service	0.2%	-2.1%	-1.6%	-3.2%	-4.1%	-5.0%	-4.6%	-4.6%	-5.5%	-5.2%	-4.2%	-3.9%
Business Services	3.6%	0.3%	0.0%	-2.7%	-2.4%	-1.7%	-2.4%	-3.7%	-4.7%	-4.7%	-7.0%	-8.3%
Services to Buildings	10.6%	10.1%	9.7%	8.4%	7.9%	6.7%	6.9%	6.4%	3.7%	2.4%	2.8%	2.0%
Educational Services	1.7%	1.4%	1.4%	-0.5%	0.9%	0.0%	0.0%	-0.2%	0.5%	0.5%	0.2%	0.0%
Health Services	5.6%	5.8%	5.5%	5.1%	5.0%	5.1%	4.9%	4.7%	4.4%	4.2%	4.0%	3.4%
Leisure & Hospitality	3.4%	3.3%	3.5%	2.4%	2.8%	1.9%	1.0%	2.0%	1.2%	2.1%	1.6%	1.6%
Other Services	-0.9%	-1.0%	-1.6%	-1.3%	-2.2%	-3.1%	-0.1%	-1.3%	-1.3%	0.3%	-0.5%	-1.4%

(1) Unemployment rate is seasonally adjusted rate for period shown, not year-over-year change

**Table 3 (cont.): Recent Trends in Arizona Employment, Unemployment** (*employment numbers in thousands*)

<b>Arizona Employment Trends by Major Economic Sector</b>												
<i>percentages are year-over-year changes in employment levels</i>												
	<b>2008</b>											
	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>
<b>Unemployment Rate<sup>(1)</sup></b>	4.3%	4.0%	4.0%	3.9%	4.4%	4.8%	5.1%	5.6%	5.9%			
<b>Total Private Sector</b>	<b>2,215.1</b>	<b>2,225.3</b>	<b>2,232.5</b>	<b>2,226.3</b>	<b>2,221.3</b>	<b>2,207.2</b>	<b>2,181.4</b>	<b>2,177.4</b>	<b>2,168.7</b>			
Year-Over-Year Change	-0.3%	-0.8%	-1.2%	-1.0%	-1.5%	-2.1%	-2.0%	-2.6%	-2.9%			
<b>Goods Producing</b>	<b>397.7</b>	<b>396.6</b>	<b>395.2</b>	<b>391.8</b>	<b>389.4</b>	<b>386.2</b>	<b>383.0</b>	<b>380.1</b>	<b>376.0</b>			
Year-Over-Year Change	-5.0%	-6.0%	-6.5%	-6.5%	-7.3%	-9.1%	-8.8%	-9.7%	-9.8%			
Construction change	-9.2%	-10.1%	-11.0%	-11.4%	-12.6%	-15.4%	-15.3%	-16.5%	-17.2%			
Manufacturing change	-1.1%	-2.2%	-2.2%	-1.8%	-2.1%	-2.4%	-1.9%	-2.3%	-1.7%			
Aerospace change	6.2%	-1.1%	1.1%	1.1%	0.7%	0.4%	0.0%	0.0%	0.4%			
<b>Services</b>	<b>1,817.4</b>	<b>1,828.7</b>	<b>1,837.3</b>	<b>1,834.5</b>	<b>1,831.9</b>	<b>1,821.0</b>	<b>1,798.4</b>	<b>1,797.3</b>	<b>1,792.7</b>			
Year-Over-Year Change	0.8%	0.4%	0.0%	0.2%	-0.1%	-0.5%	-0.4%	-1.0%	-1.4%			
Wholesale Trade	0.74%	-0.28%	-0.55%	-0.28%	-1.11%	-2.66%	-1.57%	-1.49%	-0.93%			
Retail Trade	1.6%	1.2%	0.7%	0.4%	-0.4%	-0.4%	-1.1%	-2.3%	-3.8%			
Admin. & Waste Svc.	-1.1%	-1.4%	-2.4%	-2.4%	-2.7%	-3.7%	-3.3%	-5.0%	-5.4%			
Employment Service	-1.9%	-2.0%	-3.1%	-3.4%	-3.8%	-5.0%	-5.1%	-7.9%	-8.4%			
Business Services	-8.2%	-6.8%	-6.9%	-4.2%	-4.5%	-6.5%	-3.2%	-4.2%	-4.3%			
Services to Buildings	2.5%	1.3%	1.3%	1.3%	0.4%	0.2%	0.2%	-1.2%	-1.5%			
Educational Services	-0.7%	-0.2%	-0.2%	0.5%	-0.5%	0.5%	0.5%	0.9%	0.2%			
Health Services	5.0%	4.2%	4.4%	4.7%	4.6%	3.9%	4.2%	4.0%	3.9%			
Leisure & Hospitality	1.2%	0.9%	0.3%	1.1%	0.9%	0.8%	1.0%	-0.1%	-1.1%			
Other Services	-1.1%	-1.1%	-1.6%	0.2%	0.0%	0.6%	-0.4%	-0.7%	-1.7%			

(1) Unemployment rate is seasonally adjusted rate for period shown, not year-over-year change

## ENGLISH LANGUAGE LEARNER ENROLLMENT TRENDS

Another indicator of the size of Arizona's foreign-born population is enrollment in English Language Learner (ELL) programs. Enrollment in these programs declined between FY2004 and FY2008 as seen in Table 4 below, however this decline reflects, in part, policies enacted by the Arizona Department of Education (ADE) requiring increased documentation of eligibility for students enrolled in ELL programs. These ELL enrollment numbers, therefore, reflect both the number of students learning to speak English and changes in how school districts apply for and receive funding to teach these students. Conversations with Department of Education staff indicate that these policies, first enacted for FY2004, are now largely fully implemented so that any changes in ELL enrollment between FY2008 and FY2009 are more likely driven by changes in the actual number of students requiring language services rather than ADE policy changes.

**Table 4. ELL Enrollment: School Year Average<sup>6</sup>**

County	FY 2004	FY2005	FY2006	FY2007	FY2008
Apache	5,949	4,158	2,649	2,710	2,460
Cochise	3,754	2,927	2,627	2,465	2,694
Coconino	4,049	2,743	2,556	2,419	2,578
Gila	729	353	160	161	330
Graham	25	46	20	19	21
Greenlee	1	0	5	0	10
La Paz	386	303	268	242	248
Maricopa	96,058	96,572	85,243	90,870	98,734
Mohave	1,274	1,285	1,403	1,429	1,493
Navajo	5,608	4,292	3,022	3,004	3,210
Pima	20,266	18,133	16,945	16,700	17,294
Pinal	2,607	2,868	3,017	3,608	4,045
Santa Cruz	5,892	5,252	4,021	3,845	3,755
Yavapai	1,712	1,917	1,860	1,893	1,951
Yuma	13,368	13,223	10,824	10,929	11,155
<b>ELL Enrollment</b>	<b>161,677</b>	<b>154,601</b>	<b>135,319</b>	<b>141,262</b>	<b>150,700</b>
<b>Total Enrollment</b>	<b>1,011,959</b>	<b>1,055,338</b>	<b>1,066,861</b>	<b>1,099,591</b>	<b>1,145,982</b>
<b>ELL % of Enrollment</b>	<b>15.9%</b>	<b>14.6%</b>	<b>12.7%</b>	<b>12.8%</b>	<b>13.2%</b>

Some counties, specifically Maricopa, Mohave, Greenlee, Pinal, and Yavapai have seen ELL enrollments increase over the period while all other counties have experienced declines in these enrollments between FY2004 and FY2008.

<sup>6</sup> Source: Arizona Department of Education

## Post-LAWA English Language Learner Enrollments

School districts report ELL enrollments as of three dates: October 1, December 15, and February 1 of each academic year. These numbers are averaged by the Department of Education to get ELL enrollments for the fiscal year, reported in Table 2 above. Enrollments for fiscal years 2004 through 2007, and the October and December figures for fiscal year 2008 represent enrollment *before* enactment of the Legal Arizona Workers Act. The figures reported by school districts in February of 2008 reflect enrollments *after* LAWA was enacted. The data for these three reporting dates in FY2008 were examined to see if significant declines in ELL enrollments occurred after LAWA went into effect. Results of this analysis are shown here in Table 5.

**Table 5**

County	FY2008 Average	Oct 1	Dec 15	Feb 1	Oct-Dec	Dec-Feb	Dec- Feb % Change
Apache	2,460	2,285	2,614	2,545	329	69	-2.6%
Cochise	2,694	2,685	2,709	2,672	24	37	-1.4%
Coconino	2,578	2,598	2,611	2,526	13	85	-3.3%
Gila	330	223	395	376	172	19	-4.8%
Graham	21	21	20	20	1	0	0.0%
Greenlee	10	10	10	10	0	0	0.0%
La Paz	248	244	245	249	1	4	1.6%
Maricopa	98,734	98,849	99,789	97,660	940	2,129	-2.1%
Mohave	1,493	1,523	1,492	1,466	31	26	-1.7%
Navajo	3,210	3,347	3,299	3,025	48	274	-8.3%
Pima	17,294	17,208	17,622	17,064	414	558	-3.2%
Pinal	4,045	3,991	4,068	4,092	77	24	0.6%
Santa Cruz	3,755	3,789	3,814	3,685	25	129	-3.4%
Yavapai	1,951	1,993	1,944	1,916	49	28	-1.4%
Yuma	11,155	10,886	11,356	11,228	470	128	-1.1%
<b>Totals</b>	150,700	149,662	152,013	148,560	2,351	3,453	-2.3%

While the declines were small, both in absolute numbers and as a percent of enrollments, most counties experienced declines in ELL enrollment between December 2007 and February 2008 after LAWA went into effect. Total ELL enrollment in Arizona declined by 2.3 percent of December enrollments and the largest percent decline was in Gila County at 4.8%.

### *In Brief*

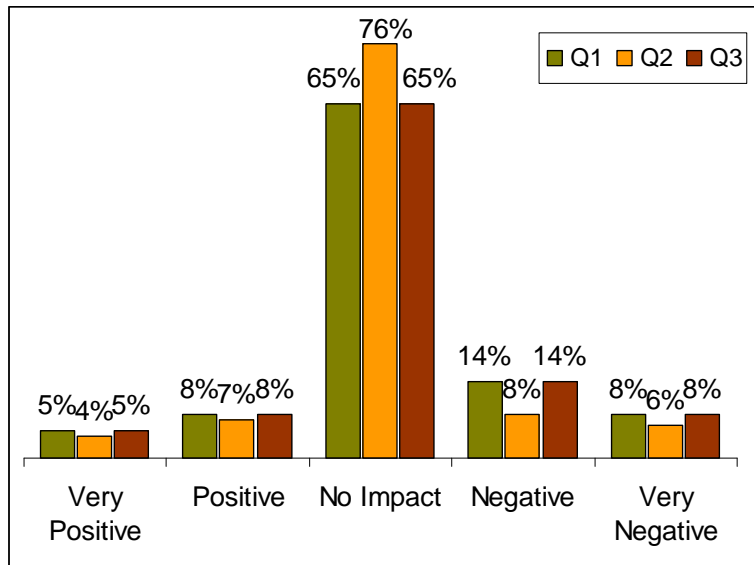
English Language Learner ELL enrollments appear to have declined slightly between the December 15, 2007 and February 1, 2008 reporting dates, although it is difficult to determine whether these declines reflect normal fluctuations in ELL enrollment or a decline in undocumented immigrant populations. Further, if the declines are the result of immigrants leaving Arizona, it is not clear whether this is the result of LAWA or of the downturn in the economy.



## BUSINESS CLIMATE IMPACTS

When initially passed, concerns were raised about whether the Legal Arizona Workers Act would have a negative impact on Arizona’s business climate and put it at a competitive disadvantage relative to other states. O’Neil Associates, a public opinion research firm in Tempe Arizona, has surveyed the membership of Arizona’s Small Business Association on the impacts of the Legal Arizona Workers Act. These surveys were conducted in each quarter of 2008 since the law went into effect.<sup>7</sup> Small businesses were asked what kind of impact the law was having on their businesses. The results for each quarter are shown in Figure 3.

**Figure 3: Survey Results: LAWA Impacts on Small Businesses**



During the first three quarters of 2008, the majority of Arizona’s small businesses report that the Legal Arizona Workers Act had no impact on their businesses. In each quarter, more businesses reported either a “negative” or “very negative” impact than reported either a “positive” or “very positive” impact. Discussions with an Arizona Small Business Association representative further illuminate these results. Specifically:

- The downturn in Arizona’s economy has softened LAWA’s impact in that employment has declined across the economy;
- If Arizona’s economy had been expanding at rates similar to the early 2000s, many small businesses, especially in construction and agriculture, would be experiencing labor shortages
- Once the economy begins to grow, the percent reporting “no impact” is likely to decline.

<sup>7</sup> Available at <http://www.oneilresearch.com/publicdomain/>

## LEGAL ARIZONA WORKERS ACT ENFORCEMENT MECHANISMS

We turn now to an examination of the specific enforcement mechanisms of the Legal Arizona Workers Act. Responsibility for enforcement of LAWA rests with Arizona's fifteen County Attorneys. Investigation of a possible violation of the Act depends on a complaint being filed by a member of the public suspecting that an employer "knowingly hired" an undocumented immigrant. The Arizona Attorney General and County Attorneys can receive and investigate complaints but authority to prosecute complaints in Superior Court rests with county attorneys.

Once a complaint has been filed, the civil division in the county attorney's office determines whether the complaint is frivolous or merits further investigation. Examples of a frivolous complaint include a presumption by the complainant of illegal status based on race, ethnicity, or Spanish language use. Non-frivolous cases are investigated to determine whether there is sufficient evidence to file an action in Superior Court to suspend (for a first offense) or revoke (for a second offense) a business's license. Filing an action in Superior Court under LAWA requires a determination of facts in two areas. First, investigators must develop evidence that an employer "knowingly hired" an unauthorized immigrant. Second, investigators must establish that the employee in question is, in fact "unauthorized."

The statute does not give County Attorneys the power to subpoena business records in determining whether the employer *knew* that a person hired after December 31, 2007 was an unauthorized immigrant. Investigators must rely on evidence provided by the individual filing the complaint and other any corroborating evidence that can be obtained independent of company records. Development of sufficient evidence to file an action in Superior Court must be done *absent* the access to company records that subpoena power would create. A number of County Attorneys interviewed mentioned this as an important constraint in the law.

Determination of the employee's immigration status must be made by the Federal government. In any action against an employer in Superior Court, the statute requires that the court only consider the federal government's determination as to whether a person is an unauthorized alien. County Attorneys must rely on the Department of Homeland Security's Immigration Control and Enforcement (ICE) division for such a determination.

LAWA requires Arizona employers to use the E-Verify program (discussed more fully later in this report) to verify the employment eligibility of every employee hired after December 31, 2007 and that use of E-Verify creates a rebuttable presumption that the employer did not knowingly employ an authorized immigrant. A determination of someone's immigration status and authorization to work must be made by the Federal government through the Department of Homeland Security.

The Attorney General issued guidelines for enforcing LAWA along with a prescribed complaint form. These are included in Appendix A. These guidelines state that complaints should be in writing using either the form available on the Attorney General's web site or a form provided by one of the County Attorneys. The law allows anonymous complaints but County Attorneys have the discretion to define protocols that make it unlikely an anonymous complaint will be investigated.

A survey of the fifteen web sites of Arizona's county attorneys reveals that:

- Four of the fifteen contain on-line information and about the Act and guidelines for filing complaints, either in brochure or Q&A form, along with a link to the county's own complaint form;

- One contains a link to the county’s own form but no on-line general information about the Act. The form itself contains instructions and guidelines for filing a complaint;
- One county’s web site contains on-line information, an on-line complaint form, and a link to the Attorney General’s complaint form;
- Two web sites have an on-line brochure and link to the Attorney General complaint form
- Seven of these fifteen web sites make no mention of the Legal Arizona Workers Act;
- Of the eight counties whose web sites containing information about the Act, three require that complaints be signed and notarized and five require a signature but no notarization.

### **Funding For LAWA Enforcement**

An initial appropriation to fund enforcement of the Legal Arizona Workers Act was provided for in the statute. The sum of \$100,000 was appropriated for the attorney general in fiscal year 2007-2008 for “enforcement of any immigration related matters.” The sum of \$2,430,000 in fiscal year 2007-2008 was appropriated for County Attorneys and allocated as follows:

- \$1,430,000 to counties with a population of more than 1,500,000 people (Maricopa);
- \$500,000 to counties with a population between 800,000 and 1,500,000 (Pima); and
- The remaining \$500,000 divided among Arizona’s remaining thirteen counties. Allocations were as small as \$1,200 for La Paz, \$2,665 for Greenlee, and as high as \$71,000 for Yavapai County.

These funds are exclusively for enforcing the Legal Arizona Workers Act. Any funds not used in fiscal year 2007-2008 were to be carried forward and used for future enforcement of the statute.<sup>8</sup>

The law’s fiscal impact on counties will depend directly on the number of complaints filed. The cost of investigating and pursuing a large number of complaints would quickly exhaust the funds allocated, particularly for smaller counties. Small counties with limited budgets facing large employers with large legal budgets are at a financial disadvantage. The determination of which cases to pursue in Superior Court will, in all cases, depend on the strength of the evidence collected by initial investigations, but pursuit of valid cases in counties whose LAWA allocations are small or already exhausted could result in a financial burden to those counties.

### **LAWA Enforcement Actions**

Interviews with Arizona’s County Attorneys revealed a range of experience with the Legal Arizona Workers Act. Table 6 lists the number and status of enforcement actions under the act as of the time of this report.

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<sup>8</sup> Text of statute, found at <http://www.azleg.gov/legtext/48leg/1r/bills/hb2779c.pdf>

**Table 6. Enforcement Actions Under the Legal Arizona Workers Act**

County	Number of Complaints	Superior Court Actions	Comments:
Apache	0	-	No anonymous complaints accepted
Gila	2 or 3	-	None worth taking to Superior Court
Cochise	0	-	
Coconino	1	0	1 case under investigation; made by a business' competitor
Graham			
Greenlee	0	-	Only calls from journalists and researchers
La Paz	0	-	No calls about filling a complaint; Only calls are from journalists
Maricopa	? <sup>9</sup>	0	Work closely with sheriff's office to receive and investigate complaints; "at least 5 businesses are currently under investigation." 8 of 15 initial complaints moot because the employees were hired prior to 1/1/08;
Mohave	15	0	7 cases being investigated, 1 or 2 may be viable. As of 10/08 dept. costs of about \$20,000 attributable to LAWA
Navajo	0	-	
Pima	4, 1	0	4 related to employees hired prior to 1/1/2008 1 currently under investigation
Pinal	1	0	Received 2 phone calls; 1 being investigated, still pending
Santa Cruz	1	0	The complainant did not submit a written complaint.
Yavapai	13	0	13 complaints received since January. 4 currently being investigated, 9 closed without further action ; \$71,000 initial funding received. Approximately \$20,000 spent.
Yuma	1	0	Complaint mailed in turned out to be a naturalized citizen

<sup>9</sup> The Maricopa County Attorney's office informs me that complaints are investigated by the Maricopa County Sherriff's office and that they "don't know how many complaints have been received." Calls to the Sherriff's office have not yet been returned.

## E-Verify as an Enforcement Tool

Originally known as the Web-Based Pilot Program, E-Verify is an internet-based system that allows employers to check the employment eligibility of new hires by comparing information on the employee's I-9 form with records in the Social Security Administration database and Department of Homeland Security immigration data bases. It is operated by the Department of Homeland Security's US Citizenship and Immigration Services Bureau in cooperation with the Social Security Administration. An evaluation of the Web-Based Pilot Program, now E-Verify, for the Department of Homeland Security was completed in September 2007.<sup>10</sup> Findings about E-Verify included:

- “The databases used for verification are still not sufficiently up to date to meet the IIRIRA (Illegal Immigration Reform and Immigrant Responsibility Act) requirement for accurate verification, especially for naturalized citizens.”<sup>11</sup> Specifically:
  - The rate of “tentative non-confirmations” for all foreign-born persons who are actually work-authorized employees (false-positives) is 3.0%.
  - The rate of false positives for U.S. born work-authorized persons is 0.1%
  - Among the work-authorized foreign-born, naturalized U.S. citizens receive “tentative non-confirmations” at a rate of 9.8% while those who have *not* become U.S. citizens receive “tentative non-confirmations” at a rate of 1.4%. Addressing this disparity “will take considerable time and will require better data collection and data sharing between SSA, USCIS, and the U.S. Department of State than is currently the case.”<sup>12</sup>
  - *These “tentative non-confirmation” rates are understated because they do not include cases that are not contested by the employee.*
  - The problem of false “tentative non-confirmations” is addressed by providing for manual review of these cases. However reviews can take months and can result in significant lost wages and discrimination against foreign-born persons who are, in fact, authorized to work in the U.S.<sup>13</sup>
- E-Verify does not substantially improve employers' ability to detect fraud when borrowed or stolen documents are used by unauthorized workers to obtain employment and it also cannot detect counterfeit documents containing information about persons who *are* work-authorized.
- The percentage of E-Verify users who reported that the program made them *more* willing to hire immigrants was greater than the percentage who reported being *less* willing to hire immigrants, presumably leading to a net reduction of employment discrimination against immigrants.
- E-Verify, as currently operated, involves some privacy concerns. Specifically, under current procedures, employers enrolling in the program are not verified against any listing of employers, making it easy for someone to pose as an employer and obtain access to the system. Further, employers do not consistently convey information to workers about tentative non-confirmations in a private setting.

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<sup>10</sup> Westat, Findings of the Web Basic Pilot Evaluation: Report Submitted to the US Department of Homeland Security, September 2007. Available at <http://www.uscis.gov/files/article/WebBasicPilotRprtSept2007.pdf>

<sup>11</sup> *Ibid*, page xxi

<sup>12</sup> *Ibid*, page xxvi

<sup>13</sup> *Ibid*

- E-Verify is relatively easy to use and does not impose a significant cost burden. Most employers reported spending \$100 or less in set-up and annual operating costs.

### Arizona Employer Enrollment in E-Verify

A list of Arizona employers enrolled in E-Verify as of August 28, 2008 was released by the Department of Homeland Security.<sup>14</sup> This list does not include employers doing business in Arizona who may have enrolled in E-Verify using a company address in another state. It also does not necessarily include every employer's location in Arizona. It is, however, the most complete list available of employers who have enrolled in the E-Verify program.

Analysis of this list provides a picture of the number and percent of employers enrolled by county. Overall, about 5.6% of Arizona employers were enrolled in E-Verify as of August of 2008. Yuma County had the largest share of firms enrolled in E-Verify at 7.2%, followed by Maricopa County at 6%, Pinal County at 5.7%, and Yavapai County at 5.3%. See sidebar for a description of how these estimates were calculated. Apache County had the smallest share of its firms enrolled in E-Verify as of August 2008 at 1.1%. The number and percent of businesses enrolled in E-Verify for all Arizona counties is shown in Table 7 on the following page.

### Methodology of E-Verify Enrollment Analysis

1. The list of Arizona employers enrolled in E-Verify was searched to calculate the number of employers enrolled in each city and town in Arizona. These numbers were aggregated by county to get the number of enrolled employers in each county.
2. The total number of employers in each county was estimated using U.S. Census bureau data on the number of firms in each Arizona County in 2002. The 2002 number of firms was increased by the annual rate of growth of GDP for Arizona from 2002 to 2007. This methodology assumes that each county in Arizona grew at the same rate as the state and that the average firm size did not change over this time period. To the extent that a county grew more slowly than the state, this method will *over-state* the number of firms in 2007 and *understate* the percent of the county's firms that have enrolled. To the extent that a county has grown more rapidly than the state, this methodology will *understate* the number of firms in 2007 and *over-state* the percent of firms in the county that have enrolled.

<sup>14</sup> Available on the AZ Attorney General's web site at [http://www.azag.gov/LegalAZWorkersAct/EVerify\\_All.pdf](http://www.azag.gov/LegalAZWorkersAct/EVerify_All.pdf)

**Table 7. Arizona Employer Enrollment in E-Verify**

<b>County</b>	<b>Est. 2007 Number of Firms</b>	<b>Number Enrolled</b>	<b>Estimated % Enrolled</b>
Apache County	3,248	35	1.1%
Cochise County	9,433	366	3.9%
Coconino County	13,535	752	5.6%
Gila County	5,241	278	5.3%
Graham County	2,013	111	5.5%
Greenlee County	426	13	3.1%
La Paz County	1,267	49	3.9%
Maricopa County	306,152	18,251	6.0%
Mohave	14,881	695	4.7%
Navajo	7,623	310	4.1%
Pima	79,336	4,038	5.1%
Pinal	10,844	620	5.7%
Santa Cruz	4,439	162	3.6%
Yavapai	23,902	1,259	5.3%
Yuma	9,419	678	7.2%
<b>Arizona Total</b>	<b>491,760</b>	<b>27,617</b>	<b>5.6%</b>

### **Voluntary Employer Enhanced Compliance Program**

The Attorney General’s Office has established a “voluntary employer enhanced compliance program” following amendments to LAWA, effective on May 1, 2008. Employers enroll in the program by submitting a signed “Affidavit and Agreement” whereby they promise to verify the eligibility of all new employees using E-Verify and to use the Social Security Number Verification Service to verify the Social Security numbers of all employees who are not checked through the E-Verify program. An employer enrolled in this program who is subsequently the subject of a complaint filed with regard to the hiring of a particular worker shall not be in violation of the Legal Arizona Workers Act if the employer in good faith verified the employment eligibility of the employee named in the complaint. As of November 19, 2008, a total of 2 employers had enrolled in the Voluntary Employer Enhanced Compliance Program.

## **IMPACTS ON THE UNDERGROUND ECONOMY**

Another impact of law designed to increased deportation of immigrations is its impact on expanding the underground economy.

An article in the November 30 2008 edition of The Arizona Republic reported that one impact of the Legal Arizona Workers Act has been to move some illegal immigrants into the underground economy. The requirement that employers use E-Verify has had the intended effect of making it more difficult for illegal immigrants to work using forged documents. According to the article, rather than “self-deporting” and leaving Arizona, however, some illegal immigrants are resorting to



more informal forms of earning money. These include breeding and selling puppies, engaging in arbitrage activities such as buying items at garage sales and reselling them at swap meets; working for employers willing to pay them in cash; and borrowing friends' identities in order to work.

Accurate estimates of the number of illegal immigrants resorting to such measures are impossible to obtain. To the extent that this is occurring, however, the phenomenon is lowering income tax revenues to the state because the incomes generated through these informal means are unreported and untaxed. This phenomenon has implications for any approaches to worksite enforcement, whether enacted at the state or federal level.

## SUMMARY

It is too soon to measure the impacts of the Legal Arizona Workers Act. There have been relatively few complaints under the law and, as of the writing of this report, no actions in Superior Court. The proportion of Arizona firms that have enrolled in E-Verify is small, and the declines in ELL enrollments in early 2008 were small. The majority of Arizona's small businesses report that LAWA has had "no impact" on their business. All of this suggests that the law's effects have been limited.

It is important to remember, however, that the Legal Arizona Workers Act has been in effect for less than one year as of the date of this report and that it took effect during a severe economic downturn. Because illegal immigration results, in part, from a mismatch between the *legal* immigration system, the labor-needs of the economy, and the size and skill-profile of the available native-born labor force, we would expect the impact of the Legal Arizona Workers Act to vary during a business cycle and to be most pronounced during periods of very low unemployment and tight labor markets and less pronounced during an economic downturn.

The current economic down-turn has resulted in declining employment in Arizona, particularly in sectors such as construction that employ significant numbers of low-skilled (immigrant) workers. Thus the current downturn in employment appears to have diffused LAWA's impacts, which may not become evident until the employment picture in Arizona improves. When the economy begins to recover, we would expect an increase in the number of LAWA complaints filed by the public and a decrease in the number of small businesses reporting "no impact" of the law.

Ultimately, the extent of any impacts will depend on a number of things including the nature of the economic recovery, how soon the construction sector recovers, and on whether there are any changes made to federal immigration law. It is too soon to determine the LAWA's impacts on Arizona's economy. It is also too soon to *measure* its impacts, whatever they may be. Enough time must pass for sufficient data to develop in order to compare Arizona's economic performance before and after the law's implementation to that of other states with similar economies that have *not* passed a similar law.

Questions of measuring LAWA's impacts aside, there are two specific aspects of the law that shape its impacts and merit discussion.

First, because the statute is enforced by county attorneys through civil action in Superior Court, enforcement is reactive. An investigation must be initiated by a member of the public filing a complaint. A proactive approach such as making the use of E-Verify a *precondition* of obtaining a

business license, enforceable through a licensing board (with subpoena power) was not written into this statute.

Second, because county attorneys do not have the power to subpoena records during the course of an investigation, developing sufficient evidence to file a civil action in Superior Court must be done without access to internal company records. Such access must wait until a specific case is before court and the rules of civil procedure then *do* allow access to company documents.

Finally, the relatively few number of complaints filed as of the writing of this report are not necessarily an accurate measure of the law's effects. Numerous references were made during the course of this research to the law's "chilling effect." Newspaper reports and other anecdotal evidence point to increased vacancies in immigrant neighborhoods and markets catering to immigrant communities being particularly affected by the economic downturn. Anecdotes are not statistical evidence, however, and further analysis will have to reveal the law's impacts.

## APPENDIX A

### Arizona Attorney General Frequently Asked Questions (FAQs) about the Legal Arizona Workers Act<sup>15</sup>

#### **What is the Legal Arizona Workers Act?**

This state law allows a County Attorney to bring a civil suit to suspend or revoke business licenses if a business intentionally or knowingly hired an “unauthorized alien” worker after December 31, 2007. The law was passed in 2007 and became effective on January 1, 2008. The statute was amended by the Arizona Legislature in 2008, with those amendments becoming effective on May 1, 2008.

#### **Who is “an unauthorized alien?”**

Any person who is not a United States citizen, not a permanent resident, and not otherwise authorized to work in the United States under federal law is an unauthorized alien.

#### **Does the Legal Arizona Workers Act apply to workers who were hired before January 1, 2008?** No.

#### **Does the Legal Arizona Workers Act make it a state crime to employ an unauthorized alien?**

No. Federal law defines several crimes that may be committed in connection with employment of an unauthorized alien, but the Legal Arizona Workers Act does not impose criminal penalties.

#### **Does the Legal Arizona Workers Act apply to workers who are paid in cash?**

Yes.

#### **Does the Legal Arizona Workers Act apply to an employer who hires an independent contractor?**

When an employer uses a contract, subcontract or other independent contractor agreement to obtain the labor of an alien in Arizona, the employer may not knowingly or intentionally contract with an unauthorized alien or with a person who employs or contracts with an unauthorized alien to perform the labor.

#### **I know of an employer who has an unauthorized alien worker on his payroll. What can I do?**

You can make a complaint with as much information as possible about the employer and employee.

#### **Where may I make a complaint?**

You can make a complaint with the [County Attorney](#) in the county where the unauthorized alien is or was working, or with the Attorney General’s Office.

#### **Since I have a choice, where would you recommend I make my complaint?**

The choice is yours to make. You may consider that [County Attorneys](#) are authorized by the law to investigate and pursue court action against employers who violate the law. In contrast, the Attorney General's Office is authorized by law only to investigate, and then turn the case over to the County Attorney of the county where the violation is alleged to have occurred. That County Attorney would make the decision about whether to file a court action against the employer.

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<sup>15</sup> Available at <http://www.azag.gov/LegalAZWorkersAct/FAQ.html>

**Where can I get a complaint form?**

A [complaint form](#) can be downloaded and printed from this Web site. The complaint form on this Web site will be accepted by all the [County Attorneys](#) in Arizona, and whether you file that complaint form with a County Attorney or this Office, your complaint will be investigated. Some County Attorneys have their own alternative forms, so in those counties you have the option of using either the form on this Web site or the form available from that County Attorney's office.

**I cannot download the complaint form from this Web site. Where else can I get that complaint form?**

Copies of this form may be picked up at the main office of the Attorney General (1275 West Washington in Phoenix) or at any of the Attorney General's satellite offices across the state. A list of satellite office locations and hours can be found on this Web site. Or you may call the Attorney General's Office at 602.542.5025 (or 1.800.352.8431 from outside the Phoenix and Tucson metropolitan areas) and a copy will be mailed to you.

**What sort of information do I need to make a complaint?**

You need to provide information supporting the allegation that an employer has knowingly or intentionally violated the law by hiring an unauthorized alien worker. The [complaint form](#) available on this Web site shows the kinds of information that will be helpful in investigating the complaint. [Click here for the complaint form.](#)

**May I make an anonymous complaint?**

The [complaint form](#) available on this Web site requires your signature and contact information because investigating anonymous complaints is often more difficult and time-consuming, particularly if any follow-up information is needed. The law states that anonymous complaints are not prohibited, but if you make an anonymous complaint, your complaint may or may not be investigated.

**May I make a complaint over the telephone or by e-mail?**

Some County Attorneys may accept complaints by telephone or e-mail. You should contact the office of the County Attorney in the county where the unauthorized alien is or was employed to inquire about complaint procedures in that county. Contact information for all [County Attorneys](#) is available on this Web site.

**If I make a complaint and give my name, will my name be made public?**

Since the complaint is a public record, it is possible that your name could at some point be made public.

**How much time will it take for me to make a complaint?**

We estimate it will take between 10 and 30 minutes to complete the [complaint form](#).

**What will happen after I make a complaint?**

Your complaint will be reviewed by the office with which you file the complaint. Each County Attorney's office is likely to have its own procedures for investigating complaints, but if additional information is required, most likely you will be contacted by the investigator who has been assigned to look into the complaint. It is difficult to estimate how much time the investigation may require.

**A business down the street has workers who only speak Spanish (or any other non-English language). Is that enough for me to make a complaint?**

No. You need evidence that the workers are not legally authorized to work in this country, and that the employer hired them knowingly or intentionally. The law states that complaints based solely on race, color or national origin shall not be investigated.

**I have read in the newspaper that several groups have challenged the constitutionality of the Legal Arizona Workers Act. Has the court ruled that the law is valid?**

The federal District Court in Phoenix has ruled that the law is not unconstitutional and may be enforced. That decision has been appealed to the United States Court of Appeals for the Ninth Circuit in San Francisco. A hearing in that appeal is scheduled for mid-June. Meanwhile, County Attorneys are free to enforce the law.

**I am an employer. What must I do to comply with the Legal Arizona Workers Act?**

Under this state law, after December 31, 2007, you may not hire any unauthorized alien as an employee or independent contractor. Also, you must use the federal government's [E-Verify](#) program to check the employment eligibility of every new employee hired after December 31, 2007.

**Are all Arizona employers required to use the E-Verify program?**

Yes. Arizona law requires all employers to use [E-Verify](#) for new workers hired after December 31, 2007. In addition, after September 30, 2008, an employer will not be eligible to receive an economic development incentive or a government contract or subcontract unless the employer uses the [E-Verify](#) program.

**Where can I learn about the “E-Verify” program?**

You can learn about the program, including how to register and how to use the system, by calling [E-Verify's](#) toll-free number (1.888.464.4218) or by going to its [Web site](#).

**What is the advantage of using the E-Verify program?**

Again, Arizona law requires all employers to use [E-Verify](#) for new workers hired after December 31, 2007. In addition, if an employer is accused of employing an unauthorized alien worker but can prove that the employment eligibility of that employee was verified using the [E-Verify](#) program, there will be a “rebuttable presumption” that the employer did not intentionally or knowingly employ an unauthorized alien.

**How can I learn whether an employer has enrolled in the E-Verify program?**

Every three months, the Attorney General's Office will request a list from the United States Department of Homeland Security of employers from this state enrolled in the [E-Verify](#) program. The first such list was requested on August 1 (three months after the effective date of the 2008 legislation). That first list was received on October 21, and it is posted [here](#).

It is important, however, to understand what the list contains and what it does not, which is explained in the answer to the [next question](#).

**I have checked the list on this Web site of employers enrolled in the E-Verify program, but there is no listing of the particular employer I was checking. Does that mean the employer is not enrolled?**

Not necessarily. The list does not necessarily include every employer doing business in Arizona that has registered with the E-Verify program, or every location of the employer's business in Arizona, for at least the following reasons:

- This list was compiled by the United States Department of Homeland Security from information available on its computer system as of August 28, 2008, so it would not include an employer that registered with E-Verify after that date.
- This list contains only employers that provided an Arizona address to the United States Department of Homeland Security when registering with E-Verify, so it does not necessarily contain all registered employers that conduct business in Arizona or that have one or more employees in Arizona. For example, an employer headquartered in another state may have used its headquarters' address when registering for E-Verify, and the employer may use E-Verify to check all new hires nationwide, including in Arizona, but that employer would not appear on this list because it did not register for E-Verify using an Arizona address.
- This list does not necessarily include every location in Arizona at which a registered employer conducts business. When an employer registers with the United States Department of Homeland Security to use E-Verify, the employer is asked to provide a single address for contact purposes, even if the employer operates at more than one location. Therefore, the absence of a business address on this list does not mean or imply that the business operating at that address either is or is not registered with E-Verify.
- When an employer registers with E-Verify, the employer uses the legal name of the individual or business entity. In many cases, however, an employer may use a trade name for public business purposes. For example, an employer operating a fast-food franchise restaurant would register with E-Verify using the franchisee's legal name, but only the franchise trade name may be visible to the public on the restaurant.
- Therefore, if you do not find the name or address of a particular business on this list, you should not assume that the employer that operates that business is not registered to use E-Verify. If you want to know whether a particular employer is registered with E-Verify, you should ask the employer.

#### **What if I use the federal I-9 process but do not use E-Verify?**

Once again, Arizona law requires all employers to use [E-Verify](#) for new workers hired after December 31, 2007. An employer that can prove that it has complied in good faith with the I-9 process and other requirements of the federal law found in 8 United States Code section 1324a(b) will have an affirmative defense that the employer did not knowingly or intentionally employ an unauthorized alien.

#### **What will happen if I try to comply with the I-9 process but make an innocent mistake?**

An employer that makes a good faith effort to comply is considered to have complied, notwithstanding an isolated, sporadic or accidental technical or procedural failure.

#### **What is the Voluntary Employer Enhanced Compliance Program?**

It is a new program established in the Attorney General's Office pursuant to the recent amendments to the Legal Arizona Workers Act, which became effective on May 1, 2008. As its name makes clear, each employer must decide whether or not to participate in this voluntary program.

#### **How can an employer sign up for the Voluntary Employer Enhanced Compliance Program?**

An employer may enroll in this new program by submitting a signed, notarized "Affidavit and Agreement" form. The [form](#) and [instructions](#) are available on this Web site. If you want to know the exact terms, you should review the Affidavit and Agreement form in detail, but among other things,

the employer promises to verify the employment eligibility of all new employees using the [E-Verify](#) program, and to use the Social Security Number Verification Service to verify Social Security numbers of all employees who are not checked through the [E-Verify](#) program.

**What will happen if a complaint is made against an employer that is enrolled in the Voluntary Employer Enhanced Compliance Program?**

If an employer is enrolled in the Voluntary Employer Enhanced Compliance Program and a complaint is made regarding the hiring of a particular worker, the employer shall not be in violation of the Legal Arizona Workers Act if the employer in good faith verified the employment eligibility of the employee named in the complaint through the [E-Verify](#) program or if the employer in good faith verified the Social Security Number of the employee named in the complaint through the Social Security Number Verification Service.

**How can I learn whether a certain employer is enrolled in the Voluntary Employer Enhanced Compliance Program?**

When an employer enrolls in the program, the Attorney General's Office will provide confirmation to the employer in a form suitable for public display, but the law does not require the employer to display it. On this Web site is a [list of employers](#) enrolled in the program.

**How can I learn whether the courts have ruled that a certain employer has violated the Legal Arizona Workers Act?**

The name of each first-time violator, the location of each such violation, and a copy of the court order will be available on this Web site.





## Legal Arizona Workers Act Prescribed Complaint Form

**Knowingly submitting a false and frivolous complaint is a Class 3 misdemeanor, punishable by a fine of up to \$500 plus other costs and up to 30 days in jail.**

**A complaint based solely on race, color or national origin will not be investigated.**

### Instructions:

1. This complaint form is prescribed by the Arizona Attorney General's Office pursuant to Arizona Revised Statutes §§ 23-212(B) and 23-212.01(B). You may use this form to make a complaint either to the County Attorney of the county where an unauthorized alien worker is or was employed, or to the Arizona Attorney General's Office. The final page of this form provides the address and telephone number of each County Attorney and the Arizona Attorney General's Office. Mail the completed form to the appropriate address from the final page. If you have any question about this form, please direct your question to the office where you intend to send your completed form.
2. The law does not require you to use this complaint form, nor does the law prohibit anonymous complaints. However, if you submit a complaint by telephone or e-mail or if you use a different complaint form or if you use this form but refuse to provide your contact information and signature or if you make some other form of anonymous complaint, your complaint may or may not be investigated, at the discretion of the investigative agency. If you intend to submit your complaint to a County Attorney, but do not wish to use this form, you should contact that County Attorney's office to determine how to submit your complaint.
3. Please use a black or blue pen and PRINT clearly.
4. Please complete all sections of this form that you can, using additional pages if necessary. If you do not know the requested information, write "unknown." Do not guess or make up information.

### Employer:

After December 31, 2007, the following employer hired one or more unauthorized alien workers as employees and/or independent contractors:

Name of employer: \_\_\_\_\_

Type of business: \_\_\_\_\_

Address where the unauthorized alien worker is or was employed:  
\_\_\_\_\_

Employer's phone number: \_\_\_\_\_

Names of managers, supervisors, or others who are familiar with employer's hiring practices:  
\_\_\_\_\_

Does the employer have one or more business licenses? \_\_\_\_ If so, what licenses? \_\_\_\_  
\_\_\_\_\_

**Unauthorized Alien Worker (#\_\_)\*:**

**After December 31, 2007, the following person was hired as an employee or independent contractor by the employer named on the first page and at the time of hiring, the following person was not authorized to work in the United States:**

Name: \_\_\_\_\_ Date hired: \_\_\_\_\_

Aliases: \_\_\_\_\_

Physical description, identifying marks: \_\_\_\_\_

Home address: \_\_\_\_\_

Phone number: \_\_\_\_\_

Date of birth: \_\_\_\_\_ Social Security number: \_\_\_\_\_

Job description: \_\_\_\_\_

Address where this person works or worked for employer: \_\_\_\_\_

What information leads you to believe that this worker was not authorized to work in the United States? \_\_\_\_\_  
\_\_\_\_\_

Did the employer know that this worker was not authorized to work in the United States? \_\_\_\_\_

If your answer is "yes," what information leads you to believe that the employer did know that this worker was not authorized to work in the United States? \_\_\_\_\_  
\_\_\_\_\_

Did the employer check this worker using the E-Verify system? \_\_\_\_\_

If so, when? \_\_\_\_\_ What was the result? \_\_\_\_\_

Did the employer check this worker using the Social Security Number Verification Service? \_\_\_\_\_

If so, when? \_\_\_\_\_ What was the result? \_\_\_\_\_

Did the employer complete an I-9 form for this worker? \_\_\_\_\_ If so, when? \_\_\_\_\_

Did the employer accept any false documents from this worker in the I-9 process? \_\_\_\_\_

If your answer is "yes," did the employer know the documents were false? \_\_\_\_\_

What documents were false? \_\_\_\_\_

What information leads you to believe that the employer knew that the documents were false?  
\_\_\_\_\_  
\_\_\_\_\_

**\* Use as many copies of this page as necessary to describe every unauthorized alien worker, one worker per page, then number each page at the top right corner, beginning with page "2".**

When did you become aware of the information provided on the previous pages? \_\_\_\_\_

\_\_\_\_\_

How did you become aware of the information provided on the previous pages? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Are you now an employee of the employer named on the first page? \_\_\_\_\_

If not, have you previously been an employee of the employer named on the first page? \_\_\_\_\_

If you were previously employed by the employer named on the first page, when did you start, when did you leave, why did you leave, where did you work, what positions did you hold, and who were your immediate supervisors? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**My Contact Information:**

Name: \_\_\_\_\_

Home address: \_\_\_\_\_

Home phone: \_\_\_\_\_

Work phone: \_\_\_\_\_

Cell phone: \_\_\_\_\_

E-mail address: \_\_\_\_\_

**Signature:**

I hereby affirm that the information set forth on all the pages of this form is true and correct.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## Mailing Addresses and Telephone Numbers

**Apache County Attorney**

P. O. Box 637  
St. Johns, AZ 85936  
928-337-7560

**Cochise County Attorney**

P. O. Drawer CA  
Bisbee, AZ 85603  
520-432-8700

**Coconino County Attorney**

110 East Cherry Avenue  
Flagstaff, AZ 86001  
928-779-6518

**Gila County Attorney**

1400 East Ash Street  
Globe, AZ 85501  
928-425-3231

**Graham County Attorney**

800 Main Street  
Safford, AZ 85546  
928-428-3620

**Greenlee County Attorney**

P. O. Box 1717  
Clifton, AZ 85533  
928-865-4108

**La Paz County Attorney**

1320 Kofa Avenue  
Parker, AZ 85344  
928-669-6118

**Maricopa County Attorney**

301 West Jefferson  
Phoenix, AZ 85003  
602-506-3411

**Arizona Attorney General**

1275 West Washington  
Phoenix, AZ 85007  
602-542-5025 -or-  
1-800-352-8431 (outside Tucson and Phoenix metro areas)

**Mohave County Attorney**

P. O. Box 7000  
Kingman, AZ 86402  
928-753-0719

**Navajo County Attorney**

P. O. Box 668  
Holbrook, AZ 86025  
928-524-4026

**Pima County Attorney** 32 North Stone Avenue,

Suite 1400  
Tucson, AZ 85701  
520-740-5600

**Pinal County Attorney**

P. O. Box 887  
Florence, AZ 85232  
520-866-6271

**Santa Cruz County Attorney**

2150 North Congress Drive,  
Suite 201  
Nogales, AZ 85621  
520-375-7780

**Yavapai County Attorney**

255 East Gurley  
Prescott, AZ 86301  
928-771-3344

**Yuma County Attorney**

250 West 2nd Street,  
Suite G  
Yuma, AZ 85364  
928-817-4300