

Published: 08.20.2006

States' immigration bills may be moot

Federal law says Congress has last word on penalties

By Erik Schelzig

THE ASSOCIATED PRESS

NASHVILLE, Tenn. — Legislatures around the country are passing laws to get tough on illegal immigration, but legal experts say many of those laws will turn out to be unconstitutional.

More than 550 bills relating to illegal immigration were introduced in statehouses this year, and at least 77 were enacted, according to a survey presented last week at the annual meeting of the National Conference of State Legislatures.

However, Ann Morse, an analyst for the group, told lawmakers at the conference that a 1986 federal law forbids states from enacting stricter criminal or civil penalties for illegal immigration than those adopted by Congress.

"The federal government decided it was too complicated for the states to enact their own competing laws on this," she said.

So what about the laws passed this year?

"I believe they'll be tested in court," she said.

Arizona state Sen. Jake Flake, a Republican and a cattle rancher, agreed that attempts to seal off the border are not likely to be successful.

"I find that if you put a bunch of steers in a pasture and run out of feed, there isn't a fence good enough to hold them," Flake said. "And I think people are the same: When they're hungry, there's not going to be a fence big enough to hold them.

"I don't think we're ever going to change this unless we help build the economy of Mexico."

State bills aimed at illegal immigration this year have included measures on education, employment, driver's licenses, law enforcement, legal services and trafficking.

Lawmakers like Tennessee state Rep. Gary Moore are frustrated that proposed federal legislation on illegal immigration has stalled in Congress.

"If we could get the federal government to give us a little more leeway, we would see a lot more reforms at the state level," said Moore, a Democrat. He said a survey of his constituents found immigration was a top concern.

It's unlikely the federal government will want to relinquish enforcement of immigration laws to the states, said Demetrios Papademetriou, president of the Washington-based Migration Policy Institute.

Local angle

- The Arizona Legislature decided this year to send three immigration measures to the November ballot for voters to decide: a new list of services to be denied to illegal immigrants, declaring English the state's official language and making punitive damages off-limits to those not in this country legally.

Broader proposals for employer sanctions and a new trespass law aimed at border crossers were passed by the Legislature but vetoed in June by Democratic Gov. Janet Napolitano.

On StarNet: *See the Star's coverage of immigration and related topics, plus special reports and a border-death database, at www.azstarnet.com/border*

Local angle

- The Arizona Legislature decided this year to send three immigration measures to the November ballot for voters to decide: a new list of services to be denied to illegal immigrants, declaring English the state's official language and making punitive damages off-limits to those not in this country legally.

Broader proposals for employer sanctions and a new trespass law aimed at border crossers were passed by the Legislature but vetoed in June by Democratic Gov. Janet Napolitano.

All content copyright © 1999-2006 AzStarNet, Arizona Daily Star and its wire services and suppliers and may not be republished without permission. All rights reserved. Any copying, redistribution, or retransmission of any of the contents of this service without the expressed written consent of Arizona Daily Star or AzStarNet is prohibited.