

REFERENCE TITLE: 2009-2010 budget reconciliation; general government

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HB 2636

Introduced by
Representatives Yarbrough: Adams, Kavanagh, McComish, Tobin (with
permission of Committee on Rules)

AN ACT

AMENDING SECTIONS 11-356, 32-1606, 33-1322 AND 41-121, ARIZONA REVISED STATUTES; AMENDING LAWS 2007, CHAPTER 260, SECTION 6, AS AMENDED BY LAWS 2008, CHAPTER 291, SECTION 7; REPEALING LAWS 2008, CHAPTER 289, SECTION 2; PROVIDING FOR APPROPRIATION REDUCTIONS; RELATING TO GENERAL GOVERNMENT BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-356, Arizona Revised Statutes, is amended to
3 read:

4 11-356. Dismissal, suspension or reduction in rank of
5 employees; appeals; hearings

6 A. Any officer or employee in the classified civil service may be
7 dismissed, suspended or reduced in rank or compensation by the appointing
8 authority after appointment or promotion is complete only by written order,
9 stating specifically the reasons for the action. The order shall be filed
10 with the clerk of the board of supervisors and a copy ~~thereof~~ OF THE ORDER
11 shall be furnished to the person to be dismissed, suspended or reduced.

12 B. The officer or employee, ~~may~~ within ten days after presentation to
13 him of the order, MAY appeal from the order through the clerk of the
14 commission. Upon the filing of the appeal, the clerk shall forthwith
15 transmit the order and appeal to the commission for hearing.

16 C. Within twenty days from the filing of the appeal, the commission
17 shall commence the hearing and either affirm, modify or revoke the order.
18 The appellant may appear personally, produce evidence, have counsel and, if
19 requested by the appellant, a public hearing.

20 D. The findings and decision of the commission shall be final, ~~and~~
21 shall be subject to administrative review as provided in title 12, chapter 7,
22 article 6.

23 E. THIS SECTION DOES NOT APPLY TO FURLOUGHS OF CLASSIFIED EMPLOYEES IF
24 THE FURLOUGHS ARE UNDERTAKEN TO ADDRESS BUDGET SHORTFALLS OR STRUCTURAL
25 IMBALANCE.

26 Sec. 2. Section 32-1606, Arizona Revised Statutes, is amended to read:
27 32-1606. Powers and duties of board

28 A. The board may:

29 1. Adopt and revise rules necessary to carry into effect the
30 provisions of this chapter.

31 2. Publish advisory opinions regarding functions of professional and
32 practical nurses.

33 3. Issue limited licenses if it determines that an applicant or
34 licensee cannot function safely in a specific setting.

35 4. Refer criminal violations of this chapter to the appropriate law
36 enforcement agency.

37 5. Establish a confidential program for the monitoring of licensees
38 who are chemically dependent and who enroll in rehabilitation programs that
39 meet the criteria established by the board. The board may take further
40 action if the licensee refuses to enter into a stipulated agreement or fails
41 to comply with its terms. In order to protect the public health and safety
42 the confidentiality requirements of this paragraph do not apply if the
43 licensee does not comply with the stipulated agreement.

44 6. Adopt rules for the qualification and certification of clinical
45 nurse specialists.

- 1 7. Adopt rules for the certification of school nurses if the state
2 board of education does not require school nurses to be certificated.
- 3 8. On the applicant's or licensee's request, establish a payment
4 schedule with the applicant or licensee.
- 5 B. The board shall:
- 6 1. Establish standards for nursing programs and courses preparing
7 persons for licensing under this chapter, recognize national nursing
8 accrediting agencies and provide for surveys of schools it deems necessary.
- 9 2. Approve nursing and nursing assistant training programs that meet
10 the requirements of this chapter and of the board.
- 11 3. Prepare and maintain a list of approved nursing programs for
12 professional and practical nurses whose graduates are eligible for licensing
13 under this chapter as graduate registered or professional nurses or as
14 practical nurses if they satisfy the other requirements of this chapter.
- 15 4. Examine qualified professional and practical nurse applicants.
- 16 5. License and renew the licenses of qualified professional and
17 practical nurse applicants who are not qualified to be licensed by the
18 executive director.
- 19 6. Adopt a seal which the executive director shall keep.
- 20 7. Keep a record of all proceedings and make an annual report to the
21 governor on a date the governor directs.
- 22 8. For proper cause, deny or rescind approval of a nursing or nursing
23 assistant training program for failure to comply with this chapter or the
24 rules of the board.
- 25 9. On its own motion or on receipt of a complaint against a person
26 licensed or certified under this chapter, conduct investigations, hearings
27 and proceedings concerning any violation of this chapter or the rules adopted
28 by the board.
- 29 10. Determine and administer appropriate disciplinary action as
30 provided by this section against all persons who are licensed or certified
31 under this chapter and who are found guilty of violating this chapter or
32 rules adopted by the board.
- 33 11. Perform functions necessary to carry out the requirements of the
34 nursing assistant training and competency evaluation program as set forth in
35 the omnibus budget reconciliation act of 1987 (P.L. 100-203; 101 Stat. 1330),
36 as amended by the medicare catastrophic coverage act of 1988 (P.L. 100-360;
37 102 Stat. 683). These functions shall include:
- 38 (a) Testing and certification of nursing assistants.
- 39 (b) Maintaining a list of board approved training programs.
- 40 (c) Recertifying nursing assistants.
- 41 (d) Maintaining a registry of all certified nursing assistants.
- 42 (e) Assessing fees.
- 43 12. Adopt rules establishing those acts that may be performed by a
44 registered nurse practitioner in collaboration with a licensed physician.

- 1 13. Adopt rules establishing educational requirements for the
2 certification of school nurses.
- 3 14. Publish copies of board rules and distribute these copies on
4 request.
- 5 15. Require each applicant for initial licensure to submit a full set
6 of fingerprints to the board for the purpose of obtaining a state and federal
7 criminal records check pursuant to section 41-1750 and Public Law 92-544.
8 The department of public safety may exchange this fingerprint data with the
9 federal bureau of investigation.
- 10 16. Require each applicant for initial nursing assistant
11 certification, ~~subject to appropriations from the state general fund by the~~
12 ~~legislature to the Arizona state board of nursing for fingerprinting,~~ to
13 submit a full set of fingerprints to the board for the purpose of obtaining a
14 state and federal criminal records check pursuant to section 41-1750 and
15 Public Law 92-544. The department of public safety may exchange this
16 fingerprint data with the federal bureau of investigation.
- 17 17. Revoke a license of a person, revoke the multistate licensure
18 privilege of a person pursuant to section 32-1669 or not issue a license or
19 renewal to an applicant who has one or more felony convictions and who has
20 not received an absolute discharge from the sentences for all felony
21 convictions five or more years before the date of filing an application
22 pursuant to this chapter. This paragraph does not apply to a person who has
23 filed an application for licensure or renewal before August 1, 1998 and who
24 has disclosed to the board one or more felony convictions on the person's
25 application.
- 26 18. Establish standards for approving nurse practitioner and clinical
27 nurse specialist programs and provide for surveys of nurse practitioner and
28 clinical nurse specialist programs as it deems necessary.
- 29 19. Provide the licensing authorities of health care institutions,
30 facilities and homes any information the board receives regarding practices
31 that place a patient's health at risk.
- 32 20. Limit the multistate licensure privilege of any person who holds or
33 applies for a license in this state pursuant to section 32-1668.
- 34 21. Adopt rules to establish competency standards for obtaining and
35 maintaining a license.
- 36 C. The board may take any of the following disciplinary actions
37 against any person who holds a license to practice nursing in this state:
38 1. Revoke the license to practice.
39 2. Suspend the license to practice.
40 3. Enter a decree of censure, which may require that restitution be
41 made to an aggrieved party.
42 4. Issue an order fixing a period and terms of probation best adapted
43 to protect the public health and safety and rehabilitate the licensed person.

1 5. Impose a civil penalty for each violation of this chapter, not to
2 exceed one thousand dollars, either singly or in combination with any
3 disciplinary action permitted under this subsection.

4 D. The board may limit, revoke or suspend the privilege of a nurse to
5 practice in this state granted pursuant TO section 32-1668.

6 E. Failure to comply with any final order of the board, including an
7 order of censure or probation, is cause for suspension or revocation of a
8 license or revocation of a certificate.

9 F. The president or a member of the board designated by the president
10 may administer oaths in transacting the business of the board.

11 Sec. 3. Section 33-1322, Arizona Revised Statutes, is amended to read:
12 33-1322. Disclosure and tender of written rental agreement

13 A. The landlord or any person authorized to enter into a rental
14 agreement on his behalf shall disclose to the tenant in writing at or before
15 the commencement of the tenancy the name and address of each of the
16 following:

17 1. The person authorized to manage the premises.

18 2. An owner of the premises or a person authorized to act for and on
19 behalf of the owner for the purpose of service of process and for the purpose
20 of receiving and receipting for notices and demands.

21 B. At or before the commencement of the tenancy, the landlord shall
22 inform the tenant in writing that ~~a free copy of~~ the Arizona residential
23 landlord and tenant act is available ~~through~~ ON the Arizona secretary of
24 state's ~~office~~ WEBSITE.

25 C. The information required to be furnished by this section shall be
26 kept current and refurnished to A tenant upon THE tenant's request. This
27 section extends to and is enforceable against any successor landlord, owner
28 or manager.

29 D. A person who fails to comply with subsections A, ~~and~~ B AND C
30 becomes an agent of each person who is a landlord for the following purposes:

31 1. Service of process and receiving and receipting for notices and
32 demands.

33 2. Performing the obligations of the landlord under this chapter and
34 under the rental agreement and expending or making available for the purpose
35 all rent collected from the premises.

36 E. If there is a written rental agreement, the landlord must tender
37 and deliver a signed copy of the rental agreement to the tenant and the
38 tenant must sign and deliver to the landlord one fully executed copy of such
39 rental agreement within a reasonable time after the agreement is executed. A
40 written rental agreement shall have all blank spaces completed.
41 Noncompliance with this subsection shall be deemed a material noncompliance
42 by the landlord or the tenant, as the case may be, of the rental agreement.

1 Sec. 4. Section 41-121, Arizona Revised Statutes, is amended to read:
2 41-121. Duties
3 The secretary of state shall:
4 1. Receive bills and resolutions from the legislature, and perform
5 such other duties as devolve upon the secretary of state by resolution of the
6 two houses or either of them.
7 2. Keep a register of and attest the official acts of the governor.
8 3. Act as custodian of the great seal of this state.
9 4. Affix the great seal, with the secretary of state's attestation, to
10 public instruments to which the official signature of the governor is
11 attached.
12 5. File in the secretary of state's office receipts for all books
13 distributed by the secretary of state and direct the county recorder of each
14 county to do the same.
15 6. Certify to the governor the names of those persons who have
16 received at any election the highest number of votes for any office, the
17 incumbent of which is commissioned by the governor.
18 7. Publish slip laws of each act of the legislature promptly upon
19 passage and approval of such act, make such acts available to interested
20 persons for a reasonable fee to compensate for the cost of printing and
21 provide each house of the legislature and the legislative council with a
22 certified copy of each bill or resolution, showing the chapter or resolution
23 number of each, as each is filed in the secretary of state's office.
24 8. Keep a fee book of fees and compensation of whatever kind and
25 nature earned, collected or charged by the secretary of state, with the date,
26 the name of the payer and the nature of the service in each case. The fee
27 book shall be verified annually by the secretary of state's affidavit entered
28 in the fee book.
29 9. Perform other duties imposed on the secretary of state by law.
30 10. Report to the governor on January 2 each year, and at such other
31 times as provided by law, a detailed account of the secretary of state's
32 official actions taken since the secretary of state's previous report
33 together with a detailed statement of the manner in which all appropriations
34 for the secretary of state's office have been expended.
35 11. Transfer all noncurrent or inactive books, records, deeds and other
36 papers otherwise required to be filed with or retained by the secretary of
37 state to the custody of the Arizona state library, archives and public
38 records.
39 12. Make available to the public, without charge, title 33, ~~chapter~~
40 **CHAPTERS 10 AND 11** on the secretary of state's ~~web-site~~ **WEBSITE**.
41 13. Accept, and approve for use, electronic and digital signatures that
42 comply with section 41-132, for documents filed with and by all state
43 agencies, boards and commissions. In consultation with the government
44 information technology agency, the department of administration and the state
45 treasurer, the secretary of state shall adopt rules pursuant to chapter 6 of

1 this title establishing policies and procedures for the use of electronic and
2 digital signatures by all state agencies, boards and commissions for
3 documents filed with and by all state agencies, boards and commissions.

4 14. Meet at least annually with personnel from the federal voting
5 assistance office of the United States department of defense and with county
6 recorders and other county election officials in this state to coordinate the
7 delivery and return of registrations, ballot requests, voted ballots and
8 other election materials to and from absent uniformed and overseas citizens.

9 Sec. 5. Laws 2007, chapter 260, section 6, as amended by Laws 2008,
10 chapter 291, section 7, is amended to read:

11 Sec. 6. Arizona twenty-first century competitive initiative
12 fund; appropriation

13 A. The sum of ~~\$22,500,000 is appropriated from the state general fund~~
14 ~~in fiscal year 2008-2009, the sum of \$25,000,000 is appropriated from the~~
15 ~~state general fund in fiscal year 2009-2010 and the sum of~~ \$27,500,000 is
16 appropriated from the state general fund in fiscal year 2010-2011 for deposit
17 into the Arizona twenty-first century competitive initiative fund established
18 by section 41-1505.09, Arizona Revised Statutes, and the same ~~amounts are~~
19 AMOUNT is appropriated from that fund to the commerce and economic
20 development commission in each fiscal year for the purposes prescribed in
21 Laws 2006, chapter 334.

22 B. In order to amend the existing memorandum of understanding or enter
23 into a new memorandum of understanding with the commission pursuant to
24 section 41-1505.09, Arizona Revised Statutes, a nonprofit corporation shall
25 identify and document written agreements for private, philanthropic or
26 governmental investments, except monies received for and belonging to the
27 state, either for specific grants or for general grant investment areas that
28 are equivalent to ~~\$22,500,000 or more in fiscal year 2008-2009, \$25,000,000~~
29 ~~in fiscal year 2009-2010 and~~ \$27,500,000 in fiscal year 2010-2011. Unless
30 prohibited by the organization's governing documents, the private,
31 philanthropic or governmental investments shall be cash or auditable cash
32 equivalent contributions to the nonprofit. State funds shall be drawn down
33 incrementally as each cash or cash equivalent match is received or otherwise
34 secured as part of the cost share for a written grant agreement by the
35 nonprofit and documented by the commission.

36 C. Contributions from government entities or any auditable cash
37 equivalent contributions shall not constitute more than fifty per cent of the
38 match required by subsection B of this section.

39 D. The ~~appropriations~~ APPROPRIATION made in subsection A of this
40 section ~~are~~ IS exempt from the provisions of section 35-190, Arizona Revised
41 Statutes, relating to the lapsing of appropriations.

42 Sec. 6. Repeal; department of administration certificates of
43 participation

44 Laws 2008, chapter 289, section 2 is repealed.

1 Sec. 7. Annual budgets

2 Notwithstanding section 35-121, Arizona Revised Statutes, for fiscal
3 year 2009-2010, appropriations for all budget units may be limited to one
4 fiscal year.

5 Sec. 8. Appropriation reduction; military installation fund

6 Notwithstanding section 41-1512.02, Arizona Revised Statutes, the
7 appropriation to the department of commerce for the military installation
8 fund from the state general fund is reduced by \$4,800,000 in fiscal year
9 2009-2010.

10 Sec. 9. Declaration of emergency; limitation

11 Notwithstanding section 35-192, Arizona Revised Statutes, or any other
12 law, the aggregate amount of all liabilities incurred during a declaration of
13 emergency shall not exceed three million five hundred thousand dollars in
14 fiscal year 2009-2010.

15 Sec. 10. Tourism fund; transfer; limitation

16 Notwithstanding the requirements of section 42-5029, subsection D,
17 paragraph 4, subdivision (b), Arizona Revised Statutes, for fiscal year
18 2009-2010, the state treasurer shall not transfer a sum of more than
19 \$10,655,200 under section 42-5029, subsection D, paragraph 4, subdivision
20 (b), Arizona Revised Statutes.

21 Sec. 11. Employee and employer contributions to the elected
22 officials' retirement plan, public safety personnel
23 retirement system and corrections officer retirement
24 plan

25 A. Notwithstanding section 38-810, Arizona Revised Statutes, for
26 fiscal year 2009-2010, each member of the elected officials' retirement plan
27 shall contribute the lesser of 8.93 per cent or one-half of the total level
28 per cent compensation contribution determined by actuarial valuation of the
29 member's gross salary to the plan. For fiscal year 2009-2010, an employer's
30 contribution to the elected officials' retirement plan determined by
31 actuarial valuation shall be reduced by the amount of the difference that is
32 paid by the member pursuant to this subsection and the amount required by
33 section 38-810, Arizona Revised Statutes.

34 B. Notwithstanding section 38-843, Arizona Revised Statutes, for
35 fiscal year 2009-2010, each member of the public safety personnel retirement
36 system shall contribute the lesser of 9.58 per cent or one-half of the total
37 level per cent compensation contribution determined by actuarial valuation of
38 the member's compensation to the system. For fiscal year 2009-2010, an
39 employer's contribution to the public safety personnel retirement system
40 determined by actuarial valuation shall be reduced by the amount of the
41 difference that is paid by the member pursuant to this subsection and the
42 amount required by section 38-843, Arizona Revised Statutes. This subsection
43 does not apply to a member of an employer whose 2009-2010 calculated employer
44 level per cent compensation contribution determined by actuarial valuation is

1 equal to or less than the required member contribution prescribed by section
2 38-843, Arizona Revised Statutes.

3 C. Notwithstanding section 38-891, Arizona Revised Statutes, for
4 fiscal year 2009-2010, each member of the corrections officer retirement plan
5 shall contribute the lesser of 9.89 per cent, if a full-time dispatcher, or
6 10.34 per cent, if not a full-time dispatcher, or one-half of the total level
7 per cent compensation contribution determined by actuarial valuation of the
8 member's salary to the plan. For fiscal year 2009-2010, an employer's
9 contribution to the corrections officer retirement plan determined by
10 actuarial valuation shall be reduced by the amount of the difference that is
11 paid by the member pursuant to this subsection and the amount required by
12 section 38-891, Arizona Revised Statutes. This subsection does not apply to
13 a member of an employer whose 2009-2010 calculated employer level per cent
14 compensation contribution determined by actuarial valuation is equal to or
15 less than the required member contribution prescribed by section 38-891,
16 Arizona Revised Statutes.

17 Sec. 12. Calculation adjustments; fiscal year 2009-2010 closing
18 state general fund balance

19 Notwithstanding any other law, for purposes of calculating the state
20 general fund balance at the close of fiscal year 2009-2010, any monies
21 appropriated from the state general fund that are exempted from lapsing
22 pursuant to section 35-190, Arizona Revised Statutes, and that remain
23 unexpended and unencumbered at the close of fiscal year 2009-2010 shall be
24 included in the closing balance as if the appropriations had lapsed or
25 otherwise reverted to the state general fund.

26 Sec. 13. Unrestricted federal monies; retroactivity

27 A. Any unrestricted federal monies received from July 1, 2009 through
28 June 30, 2010 shall be deposited in the state general fund. The monies shall
29 be used for the payment of essential governmental services.

30 B. This section is effective retroactively to from and after June 30,
31 2009.

32 Sec. 14. Required reduction in hours

33 An agency director may require agency covered employees to work reduced
34 hours in order to comply with any reduction in appropriations for personnel
35 expenses and related benefit costs for fiscal year 2009-2010. The director
36 of the department of administration shall prescribe procedures to implement
37 these reductions. The director of the department of administration is exempt
38 from the rule making requirements of title 41, chapter 6, Arizona Revised
39 Statutes, for the purposes of prescribing these procedures.

40 Sec. 15. Conforming legislation

41 The legislative council staff shall prepare proposed legislation
42 conforming the Arizona Revised Statutes to the provisions of this act for
43 consideration in the forty-ninth legislature, second regular session.