

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HOUSE BILL 2314

AN ACT

AMENDING SECTIONS 5-382, 5-383, 41-511.04 AND 41-511.25, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1008.01; AMENDING LAWS 2011, CHAPTER 35, SECTION 10; RELATING TO STATE AGENCY FEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 5-382, Arizona Revised Statutes, is amended to
3 read:
4 5-382. State lake improvement fund; administration; report
5 A. A state lake improvement fund is established. Monies deposited in
6 the fund shall be used only as provided in this section.
7 B. All monies in the state lake improvement fund are appropriated to
8 the Arizona state parks board solely for the purposes provided in this
9 section. Interest earned on monies in the fund shall be credited to the
10 fund. Monies in the state lake improvement fund are exempt from the
11 provisions of section 35-190 relating to lapsing of appropriations.
12 C. The Arizona state parks board shall administer the monies in the
13 fund as follows:
14 1. To fund staff support to plan and administer the state lake
15 improvement fund ~~and the law enforcement and boating safety fund established~~
16 ~~by section 5-383~~ in conjunction with other administrative tasks and
17 recreation plans of the board.
18 2. To fund projects on waters where gasoline powered boats are
19 permitted and shall be limited to the following:
20 (a) Public launching ramps.
21 (b) Public piers, marinas or marina stadia.
22 (c) Public toilets, sanitation facilities and domestic waters.
23 (d) Public picnic tables and facilities.
24 (e) Public parking areas.
25 (f) Lake construction or improvement.
26 (g) Marking buoys and other safety facilities.
27 (h) Watercraft.
28 (i) Public campgrounds.
29 (j) Acquisition of real and personal property through purchase, lease,
30 agreement or otherwise for the purpose of providing access to waters where
31 boating is permitted.
32 (k) Design and engineering projects.
33 D. Projects involving expenditure of monies from such fund may be
34 accomplished by the Arizona state parks board, by the Arizona game and fish
35 commission, by the board of supervisors of any county or by the governing
36 body of a city or town, provided such projects do not interfere with any
37 vested water rights, or the operation or maintenance of water projects,
38 including domestic, municipal, irrigation district, drainage district, flood
39 control district or reclamation projects. The Arizona outdoor recreation
40 coordinating commission, established by section 41-511.25, shall examine
41 applications for eligible projects, determine the amount of funding, if any,
42 for each project and submit a list of projects, subject to prior review by
43 the joint committee on capital review, to the Arizona state parks board for
44 allocation from the fund. The board shall annually report to the legislature

1 the expenditures made for such projects in conjunction with the report
2 required by section 41-511.12.

3 E. State lake improvement funds may be used on projects where matching
4 funds are made available.

5 Sec. 2. Section 5-383, Arizona Revised Statutes, is amended to read:
6 5-383. Law enforcement and boating safety fund; boating law
7 enforcement, personnel, equipment and training funding
8 to counties

9 A. A law enforcement and boating safety fund is established that
10 consists of monies distributed to the fund pursuant to section 5-323. The
11 monies are subject to legislative appropriation. ~~The Arizona state parks~~
12 ~~board shall administer the fund and establish and adopt procedures for the~~
13 ~~allocation of the monies.~~

14 B. ~~The board of supervisors of any county may apply for law~~
15 ~~enforcement and boating safety fund grants from the Arizona outdoor~~
16 ~~recreation coordinating commission for the ensuing fiscal year on forms~~
17 ~~provided by the Arizona outdoor recreation coordinating commission. ONLY A~~
18 ~~BOARD OF SUPERVISORS OF A COUNTY THAT HAS A LAW ENFORCEMENT AND BOATING~~
19 ~~SAFETY PROGRAM THAT WAS IN EXISTENCE BEFORE JULY 1, 1990 SHALL BE ELIGIBLE TO~~
20 ~~RECEIVE LAW ENFORCEMENT AND BOATING SAFETY FUND MONIES.~~

21 C. ~~The Arizona outdoor recreation coordinating commission may~~ THE
22 STATE TREASURER SHALL ADMINISTER THE FUND. USING AN ALLOCATION FORMULA AS
23 DETERMINED ANNUALLY BY THE COMMISSION, THE STATE TREASURER SHALL distribute
24 ~~grant~~ monies MONTHLY from the law enforcement and boating safety fund to
25 ELIGIBLE counties AS PRESCRIBED IN SUBSECTION B OF THIS SECTION. ~~that~~
26 ~~properly apply to receive the monies. In allocating the monies the commission~~
27 ~~may consider the following:~~

28 D. IN DETERMINING THE ALLOCATION FORMULA, THE COMMISSION MAY CONSIDER
29 THE FOLLOWING:

30 1. The adequacy of existing county boating safety programs that
31 include accident investigations.

32 2. The number of recreational days of use on water within the
33 jurisdiction of the counties in areas of administrative authority.

34 3. The surface acreage of water within the jurisdiction of the
35 counties in areas of administrative authority.

36 4. The county water safety record.

37 5. The ability of the county to constructively use additional monies.

38 6. The ratio of boating use to water surface within the jurisdiction
39 of the counties in areas of administrative authority.

40 7. The ability of participating counties to provide continued funding
41 of the program.

42 8. ANNUAL INPUT AND FEEDBACK FROM THE COUNTY BOARDS OF SUPERVISORS
43 RECEIVING FUNDS.

44 9. BOAT ACCIDENT DATA FOR THE WATERWAYS WITHIN THE JURISDICTION OF THE
45 COUNTY.

1 the state historic preservation officer and owner notification in accordance
2 with rules which the board adopts.

3 10. Accept, on behalf of the state historic preservation officer,
4 applications for classification as historic property received from the county
5 assessor.

6 11. Adopt rules with regard to classification of historic property
7 including:

8 (a) Minimum maintenance standards for the property.

9 (b) Requirements for documentation.

10 12. Monitor the performance of state agencies in the management of
11 historic properties as provided in chapter 4.2 of this title.

12 13. Advise the governor on historic preservation matters.

13 14. Plan and administer a statewide parks and recreation program,
14 including the programs established pursuant to the land and water
15 conservation fund act of 1965 (P.L. 88-578; 78 Stat. 897).

16 15. Prepare, maintain and update a comprehensive plan for the
17 development of the outdoor recreation resources of this state.

18 16. Initiate and carry out studies to determine the recreational needs
19 of this state and the counties, cities and towns.

20 17. Coordinate recreational plans and developments of federal, state,
21 county, city, town and private agencies.

22 18. Receive applications for projects to be funded through the land and
23 water conservation fund, ~~AND the state lake improvement fund and the law~~
24 ~~enforcement and boating safety fund~~ on behalf of the Arizona outdoor
25 recreation coordinating commission.

26 19. Provide staff support to the Arizona outdoor recreation
27 coordinating commission.

28 20. Maintain a statewide off-highway vehicle recreational plan. The
29 plan shall be updated at least once every five years and shall be used by all
30 participating agencies to guide distribution and expenditure of monies under
31 section 28-1176. The plan shall be open to public input and shall include
32 the priority recommendations for allocating available monies in the
33 off-highway vehicle recreation fund established by section 28-1176.

34 21. Collaborate with the state forester in presentations to legislative
35 committees on issues associated with forest management and wildfire
36 prevention and suppression as provided by section 37-622, subsection B.

37 B. Notwithstanding section 41-511.11, the board may annually collect
38 and expend monies to plan and administer the land and water conservation fund
39 program, in conjunction with other administrative tasks and recreation plans,
40 as a surcharge to subgrantees in a proportionate amount, not to exceed ten
41 per cent, of the cost of each project. The surcharge monies shall be set
42 aside to fund staff support for the land and water conservation fund program.

43 C. A partnership fund is established consisting of monies received
44 pursuant to subsection B of this section, monies received from
45 intergovernmental agreements pursuant to title 11, chapter 7, article 3 and

1 monies received pursuant to section 35-148. The board shall administer the
2 fund monies as a continuing appropriation for the purposes provided in these
3 sections.

4 D. The state historic preservation officer shall:

5 1. In cooperation with federal and state agencies, political
6 subdivisions of this state and other persons, direct and conduct a
7 comprehensive statewide survey of historic properties and historic private
8 burial sites and historic private cemeteries and maintain inventories of
9 historic properties and historic private burial sites and historic private
10 cemeteries.

11 2. Identify and nominate eligible properties to the national register
12 of historic places and the Arizona register of historic places and otherwise
13 administer applications for listing historic properties on the national and
14 state registers.

15 3. Administer grants-in-aid for historic preservation projects within
16 this state.

17 4. Advise, assist and monitor, as appropriate, federal and state
18 agencies and political subdivisions of this state in carrying out their
19 historic preservation responsibilities and cooperate with federal and state
20 agencies, political subdivisions of this state and other persons to ensure
21 that historic properties and historic private burial sites and historic
22 private cemeteries are taken into consideration at all levels of planning and
23 development.

24 5. Develop and make available information concerning professional
25 methods and techniques for the preservation of historic properties and
26 historic private burial sites and historic private cemeteries.

27 6. Make recommendations on the certification, classification and
28 eligibility of historic properties and historic private burial sites and
29 historic private cemeteries for property tax and investment tax incentives.

30 E. The state historic preservation officer may:

31 1. Collect and receive information for historic private burial sites
32 and historic private cemeteries from public and private sources and maintain
33 a record of the existence and location of such burial sites and cemeteries
34 located on private or public lands in this state.

35 2. Assist and advise the owners of the properties on which the
36 historic private burial sites and historic private cemeteries are located
37 regarding the availability of tax exemptions applicable for such property.

38 3. Make the records available to assist in locating the families of
39 ~~the person~~ PERSONS buried in the historic private burial sites and historic
40 private cemeteries.

41 F. For the purposes of this section, "historic private burial sites
42 and historic private cemeteries" means ~~a place~~ PLACES where burials or
43 interments of human remains first occurred more than fifty years ago, that
44 are not available for burials or interments by the public and THAT are not
45 regulated under title 32, chapter 20, article 6.

1 4. THE DIRECTOR OF THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND
2 BUDGETING.

3 B. THE GOVERNOR SHALL APPOINT ONE MEMBER OF THE COMMISSION AS
4 CHAIRPERSON OF THE COMMISSION. COMMISSION MEMBERS SERVE AT THE PLEASURE OF
5 THAT PERSON'S APPOINTING OFFICER AND ARE NOT ELIGIBLE TO RECEIVE COMPENSATION
6 OR REIMBURSEMENT OF EXPENSES.

7 C. THE COMMISSION SHALL:

8 1. REVIEW ALL STATE AGENCIES, EXCEPT THOSE EXEMPTED IN THE COMMISSION
9 BYLAWS, AT LEAST ONCE IN EACH FIVE-YEAR PERIOD, BEGINNING OCTOBER 1, 2011 OR
10 WHENEVER THE COMMISSION DEEMS NECESSARY.

11 2. ESTABLISH A FEE REVIEW PROCESS OF STATE AGENCIES.

12 3. ISSUE AN ANNUAL, COMPREHENSIVE REPORT THAT INCLUDES ALL OF THE
13 FOLLOWING:

14 (a) AN ANALYSIS OF THE FEES ASSESSED BY EACH OF THE REVIEWED
15 AGENCIES. THE ANALYSIS SHALL INCLUDE A COMPARISON OF THIS STATE'S AGENCIES
16 WITH OTHER, SIMILAR AGENCIES IN OTHER SOUTHWESTERN STATES AS WELL AS A
17 COMPARISON WITH NATIONWIDE TRENDS.

18 (b) AN ANALYSIS OF THE METHODS USED BY AGENCIES TO SET FEES.

19 (c) AN ANALYSIS OF THE EFFECTS THAT FEES CURRENTLY HAVE ON REGULATED
20 INDUSTRIES, BUSINESSES OR CONSUMER GROUPS FOR EACH AGENCY.

21 (d) AN ANALYSIS OF THE LONG-TERM SUSTAINABILITY OF THE REGULATED
22 PROGRAM BASED ON ALL FUND SOURCES.

23 (e) A LIST OF AGENCIES TO BE REVIEWED IN THE FOLLOWING YEAR.

24 (f) AN ANALYSIS OF THE EFFECTS RECENT BUDGET REDUCTIONS AND FUND
25 TRANSFERS HAVE HAD ON AGENCIES.

26 D. AT ITS FIRST MEETING, THE COMMISSION SHALL ADOPT BYLAWS TO GOVERN
27 ISSUES RELATED TO THE CONDUCT OF THE COMMISSION BUSINESS AND POTENTIAL
28 CONFLICTS OF INTEREST.

29 E. AGENCIES SELECTED FOR REVIEW BY THE COMMISSION SHALL COOPERATE WITH
30 THE COMMISSION AND SHALL PROVIDE INFORMATION AS REQUESTED BY THE COMMISSION.

31 F. THE COMMISSION MAY USE THE SERVICES OF THE STAFF OF THE GOVERNOR'S
32 OFFICE OF STRATEGIC PLANNING AND BUDGETING AS REQUIRED.

33 G. ON OR BEFORE DECEMBER 31, 2011, THE COMMISSION SHALL SUBMIT ITS
34 FIRST ANNUAL REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE
35 SPEAKER OF THE HOUSE OF REPRESENTATIVES. THE COMMISSION SHALL PROVIDE A COPY
36 OF THE REPORT TO THE SECRETARY OF STATE.

37 Sec. 6. Delayed repeal

38 Section 41-1008.01, Arizona Revised Statutes, as added by this act, is
39 repealed from and after September 30, 2016.

40 Sec. 7. Laws 2011, chapter 35, section 10 is amended to read:

41 Sec. 10. Racing and boxing fees; increases; exemption from rule
42 making

43 A. It is the intent of the legislature that fees be in amounts
44 sufficient to support the mission of the department of racing and that the
45 additional revenue generated by any fee increases pursuant to sections 5-104

1 and 5-230, Arizona Revised Statutes, ~~as amended by this act~~, shall not exceed
2 ~~\$1,042,000~~ \$1,442,000 in fiscal year 2011-2012 and ~~\$2,062,000~~ \$2,562,000
3 beginning in fiscal year 2012-2013.

4 B. The Arizona department of racing is exempt from the rule making
5 requirements of title 41, chapter 6, Arizona Revised Statutes, for the
6 purpose of establishing fees pursuant to sections 5-104 and 5-230, Arizona
7 Revised Statutes, ~~as amended by this act~~, until July 1, 2012.

8 Sec. 8. Appropriation; department of racing; state lake
9 improvement fund

10 A. The sum of \$400,000 is appropriated from the racing regulation fund
11 established by section 5-113.01, Arizona Revised Statutes, in fiscal year
12 2011-2012 to the department of racing to be used to meet general operating
13 expenditures.

14 B. The department of racing shall transfer \$1,000 of the amount
15 appropriated pursuant to subsection A of this section to the Arizona state
16 parks board for deposit in the state lake improvement fund established by
17 section 5-382, Arizona Revised Statutes.

18 Sec. 9. Effective date

19 Sections 5-382, 5-383, 41-511.04 and 41-511.25, Arizona Revised
20 Statutes, as amended by this act, are effective from and after June 30, 2012.