

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

HOUSE BILL 2718

AN ACT

AMENDING SECTIONS 11-539 AND 11-588, ARIZONA REVISED STATUTES; AMENDING SECTION 41-1724, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, CHAPTER 33, SECTION 20; AMENDING SECTIONS 41-2409 AND 41-2421, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO THE PURCHASE OF EQUIPMENT AND SUPPLIES FOR COUNTY DEPUTIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-539, Arizona Revised Statutes, is amended to
3 read:

4 11-539. State aid to county attorneys fund

5 A. The state aid to county attorneys fund is established consisting of
6 monies appropriated to the fund ~~and monies allocated pursuant to section~~
7 ~~41-2421, subsections B and J~~. The purpose of the fund is to provide state
8 aid to county attorneys for the processing of criminal cases.

9 B. The Arizona criminal justice commission shall administer the fund.
10 The commission shall allocate fund monies to each county pursuant to section
11 41-2409, subsection A.

12 C. All monies distributed or spent from the fund shall be used to
13 supplement, not supplant, funding at the level provided in fiscal year
14 1997-1998 by the counties for the processing of criminal cases by county
15 attorneys.

16 D. Monies in the state aid to county attorneys fund are exempt from
17 the provisions of section 35-190 relating to lapsing of appropriations ~~and~~
18 ~~monies allocated pursuant to section 41-2421, subsections B and J are subject~~
19 ~~to legislative appropriation~~. Any state general fund monies appropriated to
20 the fund may be spent without further legislative appropriation.

21 E. On notice from the commission, the state treasurer shall invest and
22 divest monies in the fund as provided by section 35-313, and monies earned
23 from investment shall be credited to the fund.

24 Sec. 2. Section 11-588, Arizona Revised Statutes, is amended to read:

25 11-588. State aid to indigent defense fund

26 A. The state aid to indigent defense fund is established consisting of
27 monies appropriated to the fund ~~and monies allocated to the fund pursuant to~~
28 ~~section 41-2421, subsections B and J~~. The purpose of the fund is to provide
29 state aid to the county public defender, legal defender and contract indigent
30 defense counsel for the processing of criminal cases.

31 B. The Arizona criminal justice commission shall administer the fund.
32 The commission shall allocate monies in the fund to each county pursuant to
33 section 41-2409, subsection C.

34 C. All monies distributed or spent from the fund shall be used to
35 supplement, not supplant, funding at the level provided in fiscal year
36 1997-1998 by counties for the processing of criminal cases by the county
37 public defender, legal defender and contract indigent defense counsel in each
38 county.

39 D. Monies in the state aid to indigent defense fund are exempt from
40 the provisions of section 35-190 relating to lapsing of appropriations ~~and~~
41 ~~monies allocated pursuant to section 41-2421, subsections B and J are subject~~
42 ~~to legislative appropriation~~. Any state general fund monies appropriated to
43 the fund may be spent without further legislative appropriation.

1 E. On notice from the commission, the state treasurer shall invest and
2 divest monies in the fund as provided by section 35-313, and monies earned
3 from investment shall be credited to the fund.

4 Sec. 3. Section 41-1724, Arizona Revised Statutes, as amended by Laws
5 2011, chapter 33, section 20, is amended to read:

6 41-1724. Gang and immigration intelligence team enforcement
7 mission fund; subaccount; use of monies; reporting
8 requirement

9 A. The gang and immigration intelligence team enforcement mission fund
10 is established consisting of monies deposited pursuant to section 11-1051 and
11 monies appropriated by the legislature. The department shall administer the
12 fund. Any monies distributed from the fund to a county sheriff shall go
13 directly to the county sheriff and are not subject to any form of approval by
14 the board of supervisors. Monies in the fund are subject to legislative
15 appropriation.

16 B. Monies in the fund shall be used for employer sanctions
17 enforcement, enforcing human smuggling and drug smuggling laws, gang and
18 strict immigration enforcement, ~~including border security and border~~
19 ~~personnel~~, county jail reimbursement costs relating to illegal immigration
20 and any other use previously authorized in an allocation made by law for the
21 gang and immigration intelligence team enforcement mission.

22 C. Each year that monies are available in the fund the first one
23 million six hundred thousand dollars shall be allocated to a county sheriff
24 of a county with a population of more than three million persons, then five
25 hundred thousand dollars shall be allocated to a county sheriff of a county
26 with a population of less than five hundred thousand persons but more than
27 three hundred thousand persons and any remaining monies shall be used for
28 agreements or contracts in accordance with subsection D of this section.

29 D. If the department uses monies from the fund for an agreement or
30 contract with a city, town, county or other entity to provide services for
31 the gang and immigration intelligence team enforcement mission, the city,
32 town, county or other entity shall provide not less than twenty-five per cent
33 of the cost of the services and the department shall provide not more than
34 seventy-five per cent of personal services and employee related expenditures
35 for each agreement or contract but may fund all capital related equipment.
36 This subsection does not apply to a county with a population of more than
37 three million persons or a county with a population of less than five hundred
38 thousand persons but more than three hundred thousand persons.

39 E. A county official in a county with a population of more than five
40 hundred thousand persons but less than two million persons shall not receive
41 any monies from the gang and immigration intelligence team enforcement
42 mission fund.

1 F. A law enforcement agency shall not receive any monies from the fund
2 unless the law enforcement agency certifies each fiscal year in writing to
3 the director of the department of public safety that the law enforcement
4 agency is complying with section 11-1051 to the fullest extent allowed by
5 law.

6 G. THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION
7 BORDER SECURITY AND LAW ENFORCEMENT SUBACCOUNT IS ESTABLISHED CONSISTING OF
8 MONIES DEPOSITED PURSUANT TO SECTION 41-2421 AND MONIES APPROPRIATED BY THE
9 LEGISLATURE. THE DEPARTMENT SHALL ADMINISTER THE FUND. ANY MONIES
10 DISTRIBUTED FROM THE FUND TO A COUNTY SHERIFF SHALL GO DIRECTLY TO THE COUNTY
11 SHERIFF AND ARE NOT SUBJECT TO ANY FORM OF APPROVAL BY THE BOARD OF
12 SUPERVISORS. MONIES IN THE SUBACCOUNT ARE SUBJECT TO LEGISLATIVE
13 APPROPRIATION. MONIES IN THE SUBACCOUNT SHALL BE USED FOR LAW ENFORCEMENT
14 PURPOSES RELATED TO BORDER SECURITY, INCLUDING BORDER PERSONNEL.

15 ~~G.~~ H. The department shall submit an expenditure plan to the joint
16 legislative budget committee for review before expending any monies not
17 identified in the department's previous expenditure plans. Within thirty
18 days after the last day of each calendar quarter, the department shall
19 provide a summary of quarterly and year-to-date expenditures and progress to
20 the joint legislative budget committee, including any prior year
21 appropriations that were nonlapsing.

22 Sec. 4. Section 41-2409, Arizona Revised Statutes, is amended to read:
23 41-2409. State aid; administration

24 A. The Arizona criminal justice commission shall administer the state
25 aid to county attorneys fund established by section 11-539. By September 1
26 of each year, the commission shall distribute monies in the fund to each
27 county according to the following composite index formula:

28 1. The three year average of the total felony filings in the superior
29 court in the county, divided by the statewide three year average of the total
30 felony filings in the superior court.

31 2. The county population, as adopted by the department of economic
32 security, divided by the statewide population, as adopted by the department
33 of economic security.

34 3. The sum of paragraphs 1 and 2 divided by two equals the composite
35 index.

36 4. The composite index for each county shall be used as the multiplier
37 against the total funds appropriated from the state general fund ~~and other~~
38 ~~monies distributed to the fund pursuant to section 41-2421.~~

39 B. The board of supervisors in each county shall separately account
40 for the monies transmitted pursuant to subsection A of this section and may
41 expend these monies only for the purposes specified in section 11-539. The
42 county treasurer shall invest these monies and interest earned shall be
43 expended only for the purposes specified in section 11-539.

1 C. The Arizona criminal justice commission shall administer the state
2 aid to indigent defense fund established by section 11-588. By September 1
3 of each fiscal year, the commission shall distribute monies in the fund to
4 each county according to the following composite index formula:

5 1. The three year average of the total felony filings in the superior
6 court in the county divided by the statewide three year average of the total
7 felony filings in the superior court.

8 2. The county population, as adopted by the department of economic
9 security, divided by the statewide population, as adopted by the department
10 of economic security.

11 3. The sum of paragraphs 1 and 2 divided by two equals the composite
12 index.

13 4. The composite index for each county shall be used as the multiplier
14 against the total funds appropriated from the state general fund ~~and other~~
15 ~~monies distributed to the fund pursuant to section 41-2421.~~

16 D. The board of supervisors shall separately account for the monies
17 transmitted pursuant to subsection C of this section and may expend these
18 monies only for the purposes specified in section 11-588. The county
19 treasurer shall invest these monies and interest earned shall be expended
20 only for the purposes specified in section 11-588.

21 E. By January 8, 2001 and by January 8 each year thereafter, the
22 commission shall report to each county board of supervisors, the governor,
23 the legislature, the joint legislative budget committee, the chief justice of
24 the supreme court and the attorney general on the expenditure of the monies
25 in the state aid to county attorneys fund and the state aid to indigent
26 defense fund for the prior fiscal year and on the progress made in achieving
27 the goal of improved criminal case processing.

28 Sec. 5. Section 41-2421, Arizona Revised Statutes, is amended to read:
29 41-2421. Enhanced collections; allocation of monies; criminal
30 justice entities

31 A. Notwithstanding any other law and except as provided in subsection
32 J of this section, five per cent of any monies collected by the supreme court
33 and the court of appeals for the payment of filing fees, including clerk
34 fees, diversion fees, fines, penalties, surcharges, sanctions and
35 forfeitures, shall be deposited, pursuant to sections 35-146 and 35-147, and
36 allocated pursuant to the formula in subsection B of this section. This
37 subsection does not apply to monies collected by the courts pursuant to
38 section 16-954, subsection C, or for child support, restitution or exonerated
39 bonds.

40 B. The monies deposited pursuant to subsection A of this section shall
41 be allocated according to the following formula:

42 1. ~~21.61~~ 42.14 per cent to the ~~state aid to county attorneys fund~~ GANG
43 AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION BORDER SECURITY AND LAW
44 ENFORCEMENT SUBACCOUNT established by section ~~11-539~~ 41-1724.

1 ~~2. 20.53 per cent to the state aid to indigent defense fund~~
2 ~~established by section 11-588.~~

3 ~~3.~~ 2. 57.37 per cent to the state aid to the courts fund established
4 by section 12-102.02.

5 ~~4.~~ 3. 0.49 per cent to the department of law for the processing of
6 criminal cases.

7 C. Notwithstanding any other law and except as provided in subsection
8 J of this section, five per cent of any monies collected by the superior
9 court, including the clerk of the court and the justice courts in each county
10 for the payment of filing fees, including clerk fees, diversion fees, adult
11 and juvenile probation fees, juvenile monetary assessments, fines, penalties,
12 surcharges, sanctions and forfeitures, shall be transmitted to the county
13 treasurer for allocation pursuant to subsections E, F, G and H of this
14 section. This subsection does not apply to monies collected by the courts
15 pursuant to section 16-954, subsection C or for child support, restitution or
16 exonerated bonds.

17 D. The supreme court shall adopt guidelines regarding the collection
18 of revenues pursuant to subsections A and C.

19 E. The county treasurer shall allocate the monies deposited pursuant
20 to subsection C of this section according to the following formula:

21 1. 21.61 per cent for the purposes specified in section 11-539.

22 2. 20.53 per cent for the purposes specified in section 11-588.

23 3. 57.37 per cent to the local courts assistance fund established by
24 section 12-102.03.

25 4. 0.49 per cent to the state treasurer for transmittal to the
26 department of law for the processing of criminal cases.

27 F. The board of supervisors in each county shall separately account
28 for all monies received pursuant to subsections C and E of this section and
29 expenditures of these monies may be made only after the requirements of
30 subsections G and H of this section have been met.

31 G. By December 1 of each year each county board of supervisors shall
32 certify if the total revenues received by the justice courts and the superior
33 court, including the clerk of the superior court, exceed the amount received
34 in fiscal year 1997-1998. If the board so certifies, then the board shall
35 distribute the lesser of either:

36 1. The total amount deposited pursuant to subsection C of this
37 section.

38 2. The amount collected and deposited pursuant to subsection C of this
39 section that exceeds the base year collections of fiscal year 1997-1998.
40 These monies shall be distributed according to the formula specified in
41 subsection E of this section. Any monies remaining after this allocation
42 shall be transmitted as otherwise provided by law.

43 H. If a county board of supervisors determines that the total revenues
44 transmitted by the superior court, including the clerk of the superior court
45 and the justice courts in the county, do not equal the base year collections

1 transmitted in fiscal year 1997-1998 the monies specified in subsection C of
2 this section shall be transmitted by the county treasurer as otherwise
3 provided by law.

4 I. For the purposes of this section, base year collections shall be
5 those collections specified in subsection C of this section.

6 J. Monies collected pursuant to section 12-116.01, subsection B shall
7 be allocated as follows:

8 1. ~~15.44~~ 30.10 per cent to the ~~state aid to county attorneys fund~~ GANG
9 AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION BORDER SECURITY AND LAW
10 ENFORCEMENT SUBACCOUNT established by section ~~11-539~~ 41-1724.

11 ~~2. 14.66 per cent to the state aid to indigent defense fund~~
12 ~~established by section 11-588.~~

13 ~~3.~~ 2. 40.97 per cent to the state aid to the courts fund established
14 by section 12-102.02.

15 ~~4.~~ 3. 0.35 per cent to the department of law for the processing of
16 criminal cases.

17 ~~5.~~ 4. 14.29 per cent to the Arizona criminal justice commission for
18 distribution to state, county and municipal law enforcement full service
19 forensic crime laboratories pursuant to rules adopted by the Arizona criminal
20 justice commission.

21 ~~6.~~ 5. 14.29 per cent to the supreme court for allocation to the
22 municipal courts pursuant to subsection K of this section.

23 K. The supreme court shall administer and allocate the monies received
24 pursuant to subsection J, paragraph ~~6-~~ 5 of this section to the municipal
25 courts based on the total amount of penalty assessments transmitted pursuant
26 to section 12-116.01 by that jurisdiction's city treasurer to the state
27 treasurer for the prior fiscal year divided by the total amount of penalty
28 assessments transmitted to the state treasurer pursuant to section 12-116.01
29 by all city treasurers statewide for the prior fiscal year. The municipal
30 court shall use the monies received to improve, maintain and enhance the
31 ability to collect and manage monies assessed or received by the courts, to
32 improve court automation and to improve case processing or the administration
33 of justice. The municipal court shall submit a plan to the supreme court and
34 the supreme court shall approve the plan before the municipal court begins to
35 spend these allocated monies.

36 Sec. 6. Arizona criminal justice commission; appropriation
37 reductions; 2011-2012

38 In addition to any other appropriation reductions or fund transfers
39 made in fiscal year 2011-2012, notwithstanding any other law, the
40 appropriation to the Arizona criminal justice commission is reduced by
41 \$973,600 from the state aid to county attorneys fund and \$700,300 from the
42 state aid to indigent defense fund in fiscal year 2011-2012.

1 Sec. 7. Appropriation: border security

2 The sum of \$1,673,900 is appropriated from the gang and immigration
3 intelligence team enforcement mission border security and law enforcement
4 subaccount established by section 41-1724, Arizona Revised Statutes, as
5 amended by this act, in fiscal year 2011-2012 to the department of public
6 safety to be used by the department of public safety to enter into a
7 memorandum of understanding with a county with a population of more than
8 three hundred thousand persons but less than five hundred thousand persons to
9 purchase equipment and supplies for deputies in the county for border
10 security. On or before June 30, 2012, the department of public safety shall
11 report to the joint legislative budget committee regarding the use of these
12 monies.

13 Sec. 8. Short title

14 This act shall be known as the "Border Crime Unit Act".