

REFERENCE TITLE: fire suppression; federal reimbursement

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HB 2366

Introduced by
Representatives Thorpe, Coleman

AN ACT

AMENDING SECTIONS 35-144 AND 37-623.02, ARIZONA REVISED STATUTES; RELATING TO
WILDFIRE SUPPRESSION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 35-144, Arizona Revised Statutes, is amended to
3 read:

4 35-144. Budget stabilization fund; definitions

5 A. The budget stabilization fund is established consisting of monies
6 transferred from the state general fund pursuant to subsection B of this
7 section. The state treasurer shall administer the fund and invest and divest
8 monies in the fund as provided by sections 35-313 and 35-314.02, and monies
9 earned from investment shall be credited to the fund. Except as provided by
10 this section:

11 1. Monies in the fund are exempt from the provisions of section 35-190
12 relating to the reversion of monies to the state general fund.

13 2. The monies in the fund are separate monies to be used only for the
14 purposes of the fund.

15 3. AN AMOUNT SUFFICIENT TO PAY CLAIMS CERTIFIED BY THE STATE FORESTER
16 PURSUANT TO SECTION 37-623.02 IS CONTINUOUSLY APPROPRIATED FROM THE FUND TO
17 THE STATE TREASURER FOR PAYMENT OF THE CERTIFIED CLAIMS.

18 B. In a calendar year in which the annual growth rate exceeds the
19 trend growth rate, the excess growth when multiplied by total general fund
20 revenue of the fiscal year ending in the calendar year determines the amount
21 to be appropriated by the legislature to the budget stabilization fund in the
22 fiscal year in which the calendar year ends.

23 C. In a calendar year in which the annual growth rate is both less
24 than two ~~per cent~~ PERCENT and less than the trend growth rate, the difference
25 between the annual growth rate and the trend growth rate when multiplied by
26 the total general fund revenue of the fiscal year ending in the calendar year
27 determines the amount to be transferred by the legislature from the budget
28 stabilization fund to the state general fund at the end of the fiscal year in
29 which the calendar year ends. The transfer calculated pursuant to this
30 subsection shall not exceed the available balance in the fund, nor shall the
31 legislature transfer an amount ~~which~~ THAT exceeds the amount sufficient to
32 balance the general fund budget.

33 D. The legislature shall pass a bill ~~which~~ THAT contains the emergency
34 clause if the legislature either:

35 1. Reduces the amount for appropriation to the budget stabilization
36 fund under subsection B of this section.

37 2. Increases the amount for transfer to the state general fund under
38 subsection C of this section.

39 E. The annual budget recommendations of the governor and the joint
40 legislative budget committee shall include estimates of appropriations or
41 transfers required under subsection B or C of this section.

42 F. A final determination of the amount to be appropriated to or
43 transferred from the budget stabilization fund shall be made using personal
44 income and price deflator estimates as reported in the second calendar
45 quarter for the preceding calendar year. The economic estimates commission
46 shall determine the annual growth rate, the trend growth rate and the

1 required appropriation to or transfer from the budget stabilization fund at
2 its first meeting following the second calendar quarter report of the United
3 States department of commerce, but not later than June 1. The commission
4 shall certify and report its findings to the governor, the state treasurer,
5 the president of the senate, the speaker of the house of representatives and
6 the joint legislative budget committee.

7 G. The appropriation calculated pursuant to subsection B of this
8 section may be included in the general appropriation bill for that fiscal
9 year. Any additional appropriation calculated pursuant to subsection F of
10 this section shall be made by separate act.

11 H. At the end of a fiscal year, the budget stabilization fund balance
12 shall not exceed 5.634 ~~per-cent~~ PERCENT for fiscal year 1997-1998, 6.333
13 ~~per-cent~~ PERCENT for fiscal year 1998-1999 and seven ~~per-cent~~ PERCENT for
14 fiscal year 1999-2000 and each subsequent fiscal year of general fund revenue
15 for each fiscal year. Any surplus monies above the allowable percentages
16 shall be transferred by the state treasurer to the state general fund.

17 I. The state treasurer may temporarily divest monies in the budget
18 stabilization fund to avoid a negative cash balance in operating monies. The
19 amount divested shall not exceed the amount required to meet immediate cash
20 needs. The state treasurer may divest monies in the budget stabilization
21 fund only when the general fund has a negative cash balance.

22 J. ~~It~~ FOR THE PURPOSES OF this section:

23 1. "Adjusted personal income" means personal income minus transfer
24 payments, as reported by the United States department of commerce, bureau of
25 economic analysis, or its successor agency.

26 2. "Annual growth rate" means the percentage change in real adjusted
27 personal income in the calendar year ending during a fiscal year as compared
28 to real adjusted personal income for the preceding calendar year. The annual
29 growth rate shall be rounded to the nearest one-hundredth of one ~~per-cent~~
30 PERCENT.

31 3. "GDP price deflator" means the gross domestic product price
32 deflator reported by the United States department of commerce, bureau of
33 economic analysis, or its successor agency.

34 4. "Personal income" means the total personal income of all persons in
35 this state reported by the United States department of commerce, bureau of
36 economic analysis, or its successor agency.

37 5. "Real adjusted personal income" means an amount ~~which~~ THAT is
38 determined by dividing adjusted personal income by the GDP price deflator and
39 multiplying the result by one hundred.

40 6. "Transfer payments" means that portion of personal income ~~which~~
41 THAT represents a government expenditure for which no service is rendered or
42 product is delivered, as determined by the United States department of
43 commerce, bureau of economic analysis, or its successor agency.

44 7. "Trend growth rate" means the average annual growth rate for the
45 most recent seven calendar years, rounded to the nearest one-hundredth of one
46 ~~per-cent~~ PERCENT.

1 Sec. 2. Section 37-623.02, Arizona Revised Statutes, is amended to
2 read:

3 37-623.02. Emergencies; prohibiting fireworks; liabilities and
4 expenses; fire suppression revolving fund

5 A. On request of the state forester, the governor may authorize the
6 state forester to incur liabilities for suppressing wildland fires and
7 responding to other unplanned all-risk activities from unrestricted monies in
8 the state general fund whether or not the legislature is in session.

9 B. The state forester has the authority to prohibit the use of
10 fireworks during times of high fire potential in the unincorporated areas of
11 the state.

12 C. The state forester or the state forester's designee shall review
13 all liabilities incurred and expenditures made under this section and shall
14 report the expenditures to the department of administration for audit
15 according to department of administration rules. The state forester shall
16 transmit a copy of the report to the state emergency council.

17 D. Liabilities incurred under this section are subject to the
18 following limitations:

19 1. Wildland fire suppression or other unplanned all-risk emergency
20 liabilities shall not exceed three million dollars of state general fund
21 monies pursuant to subsection A of this section in a fiscal year for costs
22 associated with suppressing wildland fires, supporting other unplanned
23 all-risk activities such as fire, flood, earthquake, wind and hazardous
24 material responses and preparing for periods of extreme fire danger and
25 pre-position equipment and other fire suppression resources to provide for
26 enhanced initial attack on wildland fires. The state forester shall not
27 incur nonreimbursable liabilities for support of nonfire all-risk activities.
28 The governor shall determine when periods of extreme fire danger exist and
29 must approve any expenditure for pre-positioning activities.

30 2. If the funding authorization in paragraph 1 of this subsection is
31 exhausted, or if the nonreimbursable liabilities incurred exceed the cash
32 balance of the fire suppression revolving fund, the state forester shall not
33 incur additional liabilities without the consent of a majority of the state
34 emergency council as authorized by section 35-192.

35 E. The state forester shall process and pay claims for reimbursement
36 for wildland fire suppression services, **INCLUDING CLAIMS FOR PERSONNEL HOURS,**
37 **USED SUPPLIES AND REASONABLE AND NEGOTIATED COSTS OF DAMAGE TO EQUIPMENT THAT**
38 **EXCEEDS NORMAL WEAR AND TEAR,** as follows:

39 1. Except as provided by paragraph 2 of this subsection, within thirty
40 days after receiving a complete and correct claim for wildland fire
41 suppression services, the state forester shall pay the claim from available
42 monies that have not been committed to the payment of other wildfire
43 expenses.

44 2. Within thirty days after receiving a complete and correct claim for
45 wildland fire suppression services on federal lands, the state forester shall

1 complete the processing of the claim and forward the claim to the appropriate
2 federal agency.

3 3. For any valid claim other than for federal reimbursement, if there
4 is insufficient funding in the fire suppression revolving fund, the holder of
5 the unpaid claim shall be issued a certificate pursuant to section 35-189.

6 4. IF A FEDERAL AGENCY DOES NOT PAY A CLAIM FOR REIMBURSEMENT WITHIN
7 THIRTY DAYS AFTER THE STATE FORESTER FORWARDS THE CLAIM, THE STATE FORESTER
8 SHALL PAY THE CLAIM FROM AVAILABLE MONIES IN THE FIRE SUPPRESSION REVOLVING
9 FUND. IF THERE ARE INSUFFICIENT MONIES IN THE FIRE SUPPRESSION REVOLVING
10 FUND TO PAY THE CLAIM, THE STATE FORESTER SHALL CERTIFY THE CLAIM TO THE
11 STATE TREASURER WHO SHALL PAY THE CLAIM FROM MONIES APPROPRIATED FROM THE
12 BUDGET STABILIZATION FUND PURSUANT TO SECTION 35-144, SUBSECTION A,
13 PARAGRAPH 3. A HOLDER OF AN UNPAID FEDERAL CLAIM THAT RECEIVES MONIES
14 PURSUANT TO THIS PARAGRAPH SHALL REIMBURSE THE STATE FORESTER OR THE STATE
15 TREASURER WITHIN THIRTY DAYS AFTER PAYMENT OF THE CLAIM BY A FEDERAL AGENCY.

16 F. Monies received for suppressing wildland fires, pre-positioning
17 equipment and firefighting resources and other unplanned all-risk activities
18 may be used for the purposes of section 37-623 and this section.

19 G. The state forester shall adopt rules for administering the wildland
20 fire suppression monies authorized under this section, subject to approval of
21 the governor.

22 H. The state forester may require reimbursement from cities and other
23 political subdivisions of this state and state and federal agencies for costs
24 incurred in the suppression of wildland fires, pre-suppression or unplanned
25 all-risk activities. Reimbursement shall be based on the terms and
26 conditions in cooperative agreements, land ownership or negligence. The
27 state forester may require reimbursement from individuals or businesses only
28 for costs incurred in the suppression of wildland fires or unplanned all-risk
29 activities caused by their negligence or criminal acts.

30 I. The fire suppression revolving fund is established consisting of
31 civil penalties collected pursuant to section 36-1610 and monies received by
32 the state forester for wildland fire suppression and pre-positioning
33 equipment and resources and for payment for activities related to combating
34 wildland fires and supporting other unplanned all-risk activities such as
35 fire, flood, earthquake, wind and hazardous material responses. The state
36 forester shall not incur nonreimbursable liabilities for support of nonfire
37 all-risk activities. The state forester shall administer the fund, and all
38 monies received for these activities shall be deposited, pursuant to sections
39 35-146 and 35-147, in the fund. Monies in the fire suppression revolving
40 fund are continuously appropriated to the state forester, except that if the
41 unobligated balance of the fund exceeds two million dollars at the end of any
42 calendar year, the excess shall be transferred to the state general fund.
43 Monies in the fire suppression revolving fund are otherwise exempt from the
44 provisions of section 35-190 relating to lapsing of appropriations.