

REFERENCE TITLE: fire districts; wildland fires; budgets

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

SB 1244

Introduced by
Senators Allen S, Begay; Representative Borrelli; Senators Burges,
Contreras, Driggs, Meza; Representative Thorpe

AN ACT

AMENDING SECTIONS 35-144, 37-623.02 AND 48-807, ARIZONA REVISED STATUTES;
REPEALING SECTION 49-132, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015,
CHAPTER 208, SECTION 31; AMENDING SECTION 49-132, ARIZONA REVISED STATUTES,
AS AMENDED BY LAWS 1991, CHAPTER 315, SECTION 4; RELATING TO FIRE DISTRICTS.

(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

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

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

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

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

23 J. ~~In~~ FOR THE PURPOSES OF this section:

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

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

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

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

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

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

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

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

6 37-623.02. Emergencies; prohibiting fireworks; liabilities and
7 expenses; fire suppression revolving fund

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

12 B. The state forester has the authority to prohibit the use of
13 fireworks during times of high fire potential in the unincorporated areas of
14 the state.

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

20 D. Liabilities incurred under this section are subject to the
21 following limitations:

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

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

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

42 1. Except as provided by paragraph 2 of this subsection, within thirty
43 days after receiving a complete and correct claim for wildland fire
44 suppression services, the state forester shall pay the claim from available

1 monies that have not been committed to the payment of other wildfire
2 expenses.

3 2. Within thirty days after receiving a complete and correct claim for
4 wildland fire suppression services on federal lands, the state forester shall
5 complete the processing of the claim and forward the claim to the appropriate
6 federal agency.

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

10 4. IF A FEDERAL AGENCY DOES NOT PAY A CLAIM FOR REIMBURSEMENT WITHIN
11 THIRTY DAYS AFTER THE STATE FORESTER FORWARDS THE CLAIM, THE STATE FORESTER
12 SHALL PAY THE CLAIM FROM AVAILABLE MONIES IN THE EMERGENCY RESPONSE FUND
13 ESTABLISHED BY SECTION 49-132. IF THERE ARE INSUFFICIENT MONIES IN THE
14 EMERGENCY RESPONSE FUND TO PAY THE CLAIM, THE STATE FORESTER SHALL CERTIFY
15 THE CLAIM TO THE STATE TREASURER WHO SHALL PAY THE CLAIM FROM MONIES
16 APPROPRIATED FROM THE BUDGET STABILIZATION FUND PURSUANT TO SECTION 35-144,
17 SUBSECTION A, PARAGRAPH 3. A HOLDER OF AN UNPAID FEDERAL CLAIM THAT RECEIVES
18 MONIES PURSUANT TO THIS PARAGRAPH SHALL REIMBURSE THE STATE FORESTER OR THE
19 STATE TREASURER WITHIN THIRTY DAYS AFTER PAYMENT OF THE CLAIM BY A FEDERAL
20 AGENCY.

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

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

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

35 I. The fire suppression revolving fund is established consisting of
36 civil penalties collected pursuant to section 36-1610 and monies received by
37 the state forester for wildland fire suppression and pre-positioning
38 equipment and resources and for payment for activities related to combating
39 wildland fires and supporting other unplanned all-risk activities such as
40 fire, flood, earthquake, wind and hazardous material responses. The state
41 forester shall not incur nonreimbursable liabilities for support of nonfire
42 all-risk activities. The state forester shall administer the fund, and all
43 monies received for these activities shall be deposited, pursuant to sections
44 35-146 and 35-147, in the fund. Monies in the fire suppression revolving
45 fund are continuously appropriated to the state forester, except that if the

1 unobligated balance of the fund exceeds two million dollars at the end of any
2 calendar year, the excess shall be transferred to the state general fund.
3 Monies in the fire suppression revolving fund are otherwise exempt from the
4 provisions of section 35-190 relating to lapsing of appropriations.

5 Sec. 3. Section 48-807, Arizona Revised Statutes, is amended to read:
6 48-807. County fire district assistance tax: annual budget:
7 override

8 A. The board of supervisors of a county ~~shall levy~~, at the time of
9 levying other property taxes, **SHALL LEVY** a county fire district assistance
10 tax on the taxable property in the county of not more than ten cents per one
11 hundred dollars of assessed valuation. The tax levy provided for in this
12 subsection shall be a levy of secondary property taxes and shall not be
13 subject to title 42, chapter 17, article 2. The county treasurer shall pay
14 to each fire district, including a fire district formed pursuant to section
15 48-851, in the county from the proceeds of the tax an amount equal to twenty
16 percent of the property tax levy adopted by the district for the fiscal year
17 in which the tax will be levied, except that:

18 1. The amount of assistance from the county to a fire district shall
19 be reduced as follows:

20 (a) Through the fiscal year that ends June 30, 2012, by the dollar
21 amount that the fire district receives from the fire district assistance tax
22 that exceeds three hundred thousand dollars from and after June 30 of each
23 fiscal year.

24 (b) Beginning with the fiscal year that starts July 1, 2012, by the
25 dollar amount that the fire district receives from the fire district
26 assistance tax that exceeds four hundred thousand dollars from and after
27 June 30 of each fiscal year, without regard to whether the district is
28 located in more than one county.

29 (c) Except as provided in paragraph 2 of this subsection, if the total
30 amount to be paid to all districts in the county under this paragraph exceeds
31 the amount to be raised by the levy of ten cents per one hundred dollars
32 assessed valuation, then the county treasurer shall pay an amount less than
33 twenty percent of the property tax levy of each district. The amount to be
34 paid by the county treasurer to each district shall be determined by
35 multiplying the proceeds of the county fire district assistance tax against
36 the proportion that twenty percent of the property tax levy of each district
37 bears to the total of twenty percent of the property tax levies of all fire
38 districts in the county.

39 2. For fiscal years beginning from and after July 1, 1992, the amount
40 of assistance from the county to a fire district shall not be less than the
41 assistance provided from and after June 30, 1991 through June 30, 1992, if,
42 for the fiscal year in which the tax will be levied, the district levies a
43 tax, in addition to any tax levied under section 48-806, of three dollars per
44 one hundred dollars of assessed valuation and the assessed valuation is at
45 least ninety percent of the assessed valuation for the 1991 tax year. This

1 paragraph does not apply to fire districts subject to paragraph 1,
2 subdivision (a) or (b) of this subsection.

3 B. For the purpose of subsection A of this section, the property tax
4 levy of the fire district shall include in lieu contributions pursuant to
5 chapter 1, article 8 of this title but shall not include property tax levies
6 to be applied to the payment of principal and interest on bonds issued
7 pursuant to section 48-806.

8 C. Beginning with the fiscal year that starts July 1, 2012 AND ENDING
9 WITH THE FISCAL YEAR THAT STARTS JULY 1, 2015, a consolidated district shall
10 not receive more than four hundred thousand dollars in fire district
11 assistance tax monies, without regard to whether the consolidated district is
12 located in more than one county. BEGINNING WITH THE FISCAL YEAR THAT STARTS
13 JULY 1, 2016, A CONSOLIDATED DISTRICT MAY RECEIVE FIRE DISTRICT ASSISTANCE
14 TAX MONIES AS OTHERWISE PRESCRIBED BY THIS SECTION.

15 D. Beginning with the fiscal year that starts July 1, 2012 AND ENDING
16 WITH THE FISCAL YEAR THAT STARTS JULY 1, 2015, if two or more fire districts
17 merge to form a consolidated district and the total of the amounts received
18 by each fire district from the fire district assistance tax is less than four
19 hundred thousand dollars, the consolidated district may continue to receive
20 monies until its receipts total four hundred thousand dollars, as prescribed
21 in subsection A of this section, without regard to whether the consolidated
22 district is located in more than one county. BEGINNING WITH THE FISCAL YEAR
23 THAT STARTS JULY 1, 2016, A CONSOLIDATED DISTRICT MAY RECEIVE FIRE DISTRICT
24 ASSISTANCE TAX MONIES AS OTHERWISE PRESCRIBED BY THIS SECTION WITHOUT REGARD
25 TO WHETHER THE CONSOLIDATED DISTRICT IS LOCATED IN MORE THAN ONE COUNTY.

26 E. The board, based on the budget submitted by the district, shall
27 levy, in addition to any tax levied as provided in section 48-806, a tax not
28 to exceed three dollars twenty-five cents per one hundred dollars of assessed
29 valuation, or the amount of the levy in the preceding tax year multiplied by
30 1.08, whichever levy is less, and minus any amounts required to reduce the
31 levy pursuant to subsection H of this section, against all property situated
32 within the district boundaries and appearing on the last assessment roll.
33 The levy shall be made and the taxes collected in the manner, at the time and
34 by the officers provided by law for the collection of general county taxes.

35 F. The qualified electors of the district, voting in an election as
36 prescribed by subsection G of this section, may authorize the board to levy a
37 tax exceeding the limits prescribed by subsection E of this section under
38 one, but not both, of the following options:

39 1. The electors may authorize a permanent override allowing annual
40 levies without reference to the levy in the preceding tax year, but remaining
41 subject to the tax rate limit of three dollars twenty-five cents per one
42 hundred dollars of assessed valuation. An election for the purposes of this
43 paragraph must be held at a regularly scheduled general election held on the
44 first Tuesday following the first Monday in November as prescribed by section
45 16-204, subsection F.

1 2. ~~If the net assessed valuation of all property in the district~~
2 ~~declines by a combined total of twenty percent or more over two consecutive~~
3 ~~valuation years,~~ The electors voting at ~~the next~~ A regularly scheduled
4 general election held on the first Tuesday following the first Monday in
5 November as prescribed by section 16-204, subsection F may authorize an
6 override for five consecutive tax years allowing annual levies that are
7 exempt from the tax rate limit of three dollars twenty-five cents, ~~but~~
8 ~~subject to an annual levy limit of the amount of the levy in the preceding~~
9 ~~tax year multiplied by 1.05.~~ After the fifth tax year, the district is again
10 subject to the limits prescribed by subsection E of this section, computed by
11 multiplying the levy beginning in the year preceding the override by 1.08 for
12 each year through the current tax year, **AND SHALL NOT SEEK AN ADDITIONAL**
13 **OVERVERRIDE DURING THE FIVE TAX YEARS IMMEDIATELY FOLLOWING THE EXPIRATION OF**
14 **THE OVERRIDE.**

15 G. The call for an override election held for the purposes of
16 subsection F of this section must state:

17 1. The purpose for requesting additional secondary property tax
18 revenue for the district.

19 2. If the voters approve the levy:

20 (a) The maximum dollar amount of secondary property tax that may be
21 collected in the first year compared to the existing maximum secondary
22 property tax levy prescribed in subsection E of this section.

23 (b) The estimated secondary property tax rate to fund the proposed
24 levy under subdivision (a) of this paragraph in the first tax year compared
25 to the secondary property tax rate levied in the current year.

26 H. If the district annexes additional territory, the limit under
27 subsection E of this section shall be adjusted by applying the district's tax
28 rate to the assessed valuation of the annexed property in the preceding tax
29 year. If districts are merged or consolidated under this chapter, the
30 limitation under this subsection in the first year after the districts are
31 merged or consolidated is the total of the levies of the merged or
32 consolidated districts in the preceding tax year multiplied by 1.08 or the
33 amount of the levies allowed by the maximum rate prescribed by subsection E
34 of this section, whichever is less.

35 I. The district shall maintain any property tax revenues collected in
36 excess of the sum of the amounts of taxes collectible pursuant to section
37 42-17054 and the allowable levy determined under subsection E of this section
38 in a separate fund and used to reduce the property tax levy in the following
39 tax year.

40 J. The levy limit under this section is considered to be increased
41 each year to the maximum limit permissible under subsection E of this section
42 regardless of whether the district actually levies taxes up to the maximum
43 permissible amount in that year.

44 K. The county treasurer shall keep the money received from taxes
45 levied pursuant to subsection E of this section in a separate fund known as

1 the "fire district general fund" of the district for which collected. Any
2 surplus remaining in the fire district general fund at the end of the fiscal
3 year shall be credited to the fire district general fund of the district for
4 which it was collected for the succeeding fiscal year and after subtraction
5 of accounts payable and encumbrances, shall be used to reduce the property
6 tax levy in the following tax year.

7 L. A fire district may maintain separate accounts with a financial
8 institution that is authorized to do business in this state for the purpose
9 of operating a payroll account or for holding special revenues or ambulance
10 revenues, or both, as necessary to fulfill the district's fiduciary
11 responsibilities.

12 M. A fire district, through the county treasurer, shall establish the
13 relevant governmental funds necessary for the proper management and fiscal
14 accountability of district monies from property taxes, grants, contributions
15 and donations, as defined by the government accounting standards board.
16 Unless the monies received are legally restricted by contract, agreement or
17 law, those monies may be transferred between fund accounts according to the
18 original or amended budget of the fire district.

19 N. A fire district shall reconcile all balance sheet accounts for
20 accounts for each calendar month of the fiscal year within thirty days after
21 the end of that calendar month. The fire district board shall review the
22 reconciled balance sheet accounts monthly, except that for a fire district
23 that is governed by a three-member board, the board may review the reconciled
24 balance sheet accounts every two months.

25 O. A fire district shall produce monthly financial reports to include
26 a register of checks, warrants and deposits, a statement of financial
27 activities and a statement of net assets for each calendar month. A fire
28 district shall produce a cash flow projection report for each fiscal year.
29 The cash flow projection report shall be updated monthly with the actual
30 revenues and expenditures from the preceding month. Each month, the fire
31 district board shall review the financial reports, the updated cash flow
32 projections report and all month-end fund statements and reports of the
33 preceding month to include those reports provided by the county treasurer and
34 each of the financial institutions in which the district maintains an
35 account, except that for a fire district that is governed by a three-member
36 board, the board may review the reports and statements prescribed by this
37 subsection every two months. Any financial report or cash flow projection
38 report that would indicate that the district is likely to violate section
39 48-805.02, subsection D, paragraph 1 or that would indicate an adverse impact
40 on the ongoing operations or liquidity of the district shall be reported by
41 the fire district board chairman in writing and delivered by certified mail
42 to the county treasurer and the county board of supervisors within ten days
43 after the discovery.

44 P. Notwithstanding section 11-605, a fire district may register
45 warrants only if separate accounts are maintained by the county treasurer for

1 each governmental fund of a fire district. Warrants may only be registered
 2 on the maintenance and operation account, the unrestricted capital outlay
 3 account and the special revenue account, and only if the total cash balance
 4 of all three accounts is insufficient to pay the warrants and after any
 5 revolving line of credit has been expended as prescribed in section 11-635.

6 Q. When a fire district has adopted a budget and the board of
 7 supervisors has levied a fire district tax as provided in subsection E of
 8 this section and the district has insufficient money in its general fund with
 9 the county treasurer to operate the district, the chairman of the board, on
 10 or after August 1 of each year, may draw warrants for the purposes prescribed
 11 in section 48-805 on the county treasurer, payable on November 1 of that year
 12 or on April 1 of the succeeding year. The aggregate amounts of the warrants
 13 may not exceed ninety percent of the taxes levied by the county for the
 14 district's current fiscal year. If the treasurer cannot pay a warrant for
 15 lack of funds in the fire district general fund, the warrant shall be
 16 endorsed, be registered, bear interest and be redeemed as provided by law for
 17 county warrants, except that the warrants are payable only from the fire
 18 district general fund.

19 Sec. 4. Repeal

20 Section 49-132, Arizona Revised Statutes, as amended by Laws 2015,
 21 chapter 208, section 31, is repealed.

22 Sec. 5. Section 26-352, Arizona Revised Statutes, as amended by Laws
 23 1991, chapter 315, section 4, and as renumbered by Laws 2015, chapter 208,
 24 section 12, as section 49-132, is amended to read:

25 49-132. Emergency response fund

26 The emergency response fund is established consisting of monies
 27 appropriated by the legislature for purposes of ~~section 26-305.02 and SECTION~~
 28 ~~37-623.02 AND~~ this article and federal, private and other monies available
 29 for that purpose. The ~~chairman of the commission~~ DEPARTMENT shall manage the
 30 fund and expend monies in the fund FOR THE PURPOSES OF SECTION 37-623.02 OR
 31 in performing the functions required or authorized by this article. All
 32 interest earned from investing monies in the fund shall be credited to the
 33 fund. Monies in the fund are subject to legislative appropriation and are
 34 exempt from section 35-190 relating to lapsing of appropriations.