

REFERENCE TITLE: intergovernmental public transportation authority;  
taxation

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

## **SB 1250**

Introduced by  
Senator Shooter

AN ACT

AMENDING SECTIONS 28-9102, 28-9103, 28-9121, 28-9122 AND 28-9142, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 26, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-9144; AMENDING SECTION 42-6106, ARIZONA REVISED STATUTES; RELATING TO INTERGOVERNMENTAL PUBLIC TRANSPORTATION AUTHORITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-9102, Arizona Revised Statutes, is amended to  
3 read:

4 28-9102. Formation

5 A. An intergovernmental public transportation authority may be  
6 organized as provided by this section in any county with a population of two  
7 hundred thousand persons or less. ~~THE AUTHORITY MAY BE ORGANIZED AND~~  
8 ~~CONFIGURED AS FOLLOWS:~~

9 1. ~~THE COUNTY BOARD OF SUPERVISORS MAY ORGANIZE THE AUTHORITY WITH~~  
10 ~~BOUNDARIES COTERMINOUS WITH THE BOUNDARIES OF THE COUNTY.~~

11 ~~B.~~ 2. The governing body of one or more incorporated cities or towns  
12 may petition the county board of supervisors to establish ~~an~~ THE authority  
13 consisting of the area within the incorporated boundary of the municipality  
14 or municipalities.

15 ~~C.~~ 3. If the organizing municipalities are not contiguous, the  
16 unincorporated areas between the organizing municipalities must also be  
17 included in the authority with the approval of the county board of  
18 supervisors. The board of supervisors shall establish the boundaries of the  
19 unincorporated area to be included in the authority.

20 ~~D.~~ 4. Incorporated cities and towns in different counties, each of  
21 which meet the population limit prescribed by THIS subsection ~~A.~~, may  
22 petition their respective county boards of supervisors to establish a joint  
23 authority consisting of the combined areas within their respective municipal  
24 boundaries and including any intervening unincorporated areas in the  
25 counties.

26 ~~E.~~ B. The board of supervisors shall hold at least one hearing on the  
27 petition in one of the petitioning municipalities to determine public support  
28 for the authority and whether establishing the authority would be in the  
29 public interest. In the case of petitioning municipalities in different  
30 counties, the board of supervisors of each county shall hold separate  
31 hearings and each board shall make its determination separately.

32 ~~F.~~ C. If the board of supervisors determines that establishing the  
33 authority would serve the public convenience, necessity, safety or welfare,  
34 the board of supervisors shall establish the authority by a resolution that  
35 includes a description of the boundaries of the authority. In the case of an  
36 authority in different counties, the county boards of supervisors shall  
37 establish the authority by an intergovernmental agreement.

38 ~~G.~~ D. If an authority is established under this chapter, any  
39 university that is under the jurisdiction of the Arizona board of regents and  
40 that is located in a municipality in the authority, any community college  
41 district that is located in a municipality in the authority, or any Indian  
42 nation that has a boundary within a county in which an authority is  
43 established, ~~may~~ become a member of the authority by intergovernmental  
44 agreement.



1 D. The board shall elect a chairperson and other officers from among  
2 its members and shall prescribe by rule their functions and terms and  
3 conditions of appointment.

4 Sec. 4. Section 28-9122, Arizona Revised Statutes, is amended to read:  
5 28-9122. Administrative powers and duties

6 A. The board shall:

7 1. Determine its organizational and procedural structure, adopt, amend  
8 and repeal bylaws and rules consistent with the requirements of this chapter  
9 and prescribe a system of accounts.

10 2. Employ a general manager and other employees as may be necessary  
11 and prescribe the duties, terms and conditions of employment. The general  
12 manager serves at the pleasure of the board. All employees shall be selected  
13 on the exclusive basis of merit according to their qualifications.

14 3. Manage, set policy and conduct the business and affairs of the  
15 authority.

16 4. Enter into contracts, including intergovernmental agreements.

17 5. Provide for payment of all debts and appropriate claims against the  
18 authority from the appropriate funds.

19 6. Issue an annual report on or before December 1 containing a full  
20 account of its transactions, activities and finances for the preceding fiscal  
21 year and other facts and recommendations. The board shall transmit copies of  
22 the report to each member municipality, university and county, to the  
23 secretary of state, ~~to the Arizona state library, archives and public records~~  
24 and, on request, to any member of the public.

25 B. The board may:

26 1. Delegate any powers and duties under this section to the general  
27 manager.

28 2. Sue and be sued.

29 3. Adopt a seal for the authority to be used to attest to documents.

30 4. Retain outside professional services, including legal counsel.

31 5. Acquire suitable offices, furnishings and necessary equipment,  
32 supplies and other personal property.

33 6. IF THE AUTHORITY'S BOUNDARIES ARE COTERMINOUS WITH THE COUNTY  
34 BOUNDARIES, APPROVE A REQUEST TO THE COUNTY BOARD OF SUPERVISORS FOR AN  
35 ELECTION TO APPROVE THE LEVY OF A COUNTY TRANSPORTATION EXCISE TAX AS  
36 AUTHORIZED BY SECTION 42-6106.

37 ~~6-~~ 7. Perform all other acts necessary to carry out the purposes of  
38 this chapter.

39 C. The board may not exercise the power of eminent domain.

40 ~~D. Immediately on organization, the board shall initiate proceedings~~  
41 ~~to determine the application of federal voting laws to the authority and~~  
42 ~~shall take any necessary action to comply with the applicable federal laws.~~

1           Sec. 5. Section 28-9142, Arizona Revised Statutes, is amended to read:  
2           28-9142. Public transportation authority fund

3           A. The authority treasurer shall maintain a public transportation  
4 authority fund consisting of all monies received by the authority, including:

5           1. Monies appropriated or paid to the authority from municipalities,  
6 member universities and the county.

7           2. Monies received by the authority from the federal government or  
8 this state.

9           3. Grants, gifts and other donations from any source.

10           4. Revenues collected by the authority as fares and other proceeds  
11 from operating the public transportation system.

12           5. Monies received from the county transportation excise tax as  
13 provided in section 42-6106.

14           B. Monies in the fund may be used for any lawful purpose of the  
15 authority.

16           C. The authority treasurer may invest any unexpended monies in the  
17 fund as provided in title 35, chapter 2, including in the local government  
18 investment pool, if authorized by the state treasurer. Interest and other  
19 income from investments shall be credited to the fund.

20           D. The authority treasurer shall invest the monies to mature at the  
21 times when the fund assets will be required for the purposes of this article.  
22 If the liquid assets in the fund become insufficient to meet the authority's  
23 obligations, the board of directors shall:

24           1. Direct the authority treasurer to liquidate sufficient securities  
25 to meet all of the current obligations.

26           2. Immediately notify the auditor general of the insufficiency. The  
27 auditor general shall investigate and audit the circumstances surrounding the  
28 depletion of the fund and report the findings to the board.

29           E. IF A COUNTY TRANSPORTATION EXCISE TAX IS APPROVED FOR THE AUTHORITY  
30 BY THE QUALIFIED ELECTORS VOTING AT A COUNTYWIDE ELECTION, THE DEPARTMENT OF  
31 REVENUE SHALL COLLECT ALL TAX MONIES PURSUANT TO SECTION 42-6106 AND DEPOSIT  
32 THE MONIES MONTHLY PURSUANT TO SECTION 42-5014 IN THE PUBLIC TRANSPORTATION  
33 AUTHORITY FUND. THE BENEFICIAL INTEREST IN THE FUND IS THE AUTHORITY THAT  
34 LEVIES THE TAX, AND NEITHER THIS STATE NOR THE COUNTY HAS ANY BENEFICIAL  
35 INTEREST, EITHER LEGAL OR EQUITABLE, IN THE FUND EXCEPT FOR THE REPAYMENT OF  
36 ELECTION EXPENSES.

37           ~~E.~~ F. The board shall cause an annual audit to be conducted of the  
38 fund by an independent certified public accountant within one hundred twenty  
39 days after the end of the fiscal year. The board shall immediately file a  
40 certified copy of the audit with the auditor general. The auditor general  
41 may make further audits and examinations as necessary, but if the auditor  
42 general takes no official action within thirty days after the audit is filed,  
43 the audit is considered to be sufficient. The board shall pay all fees and  
44 costs of the certified public accountant and auditor general under this  
45 subsection from the fund.

1           Sec. 6. Title 28, chapter 26, article 3, Arizona Revised Statutes, is  
2 amended by adding section 28-9144, to read:

3           28-9144. Election on intergovernmental public transportation  
4                                   authority excise tax

5           A. THE BOARD OF DIRECTORS OF AN AUTHORITY WITH BOUNDARIES COTERMINOUS  
6 WITH THE COUNTY BOUNDARIES, BY RESOLUTION CERTIFIED TO THE COUNTY BOARD OF  
7 SUPERVISORS, MAY REQUEST THAT THE ISSUE OF LEVYING A COUNTY TRANSPORTATION  
8 EXCISE TAX PURSUANT TO SECTION 42-6106 BE SUBMITTED TO THE QUALIFIED ELECTORS  
9 AT A COUNTYWIDE SPECIAL ELECTION OR PLACED ON THE BALLOT AT A COUNTYWIDE  
10 GENERAL ELECTION. WITHIN SIX MONTHS AFTER RECEIVING A CERTIFIED COPY OF THE  
11 RESOLUTION, THE COUNTY BOARD OF SUPERVISORS SHALL EITHER CALL A SPECIAL  
12 ELECTION OR PLACE THE ISSUE ON THE BALLOT OF A GENERAL ELECTION, SUBJECT TO  
13 THE REQUIREMENTS OF THIS SECTION.

14           B. IN ADDITION TO ANY OTHER REQUIREMENTS PRESCRIBED BY LAW, THE COUNTY  
15 BOARD OF SUPERVISORS SHALL PREPARE AND PRINT A PUBLICITY PAMPHLET CONCERNING  
16 THE BALLOT QUESTION AND MAIL ONE COPY OF THE PAMPHLET TO EACH HOUSEHOLD  
17 CONTAINING A REGISTERED VOTER IN THE COUNTY. THE MAILINGS MAY BE MADE OVER A  
18 PERIOD OF DAYS BUT SHALL BE MAILED FOR DELIVERY BEFORE THE EARLIEST DATE  
19 REGISTERED VOTERS MAY RECEIVE EARLY BALLOTS FOR THE ELECTION. THE PUBLICITY  
20 PAMPHLET SHALL CONTAIN:

21           1. THE DATE OF THE ELECTION.

22           2. THE LOCATION OF THE INDIVIDUAL HOUSEHOLD'S POLLING PLACE AND THE  
23 TIME THE POLLS WILL BE OPEN.

24           3. A SUMMARY OF THE PRINCIPAL PROVISIONS OF THE ISSUE PRESENTED TO THE  
25 VOTERS, INCLUDING THE RATE OF THE COUNTY TRANSPORTATION EXCISE TAX, THE  
26 NUMBER OF YEARS THE TAX WILL BE IN EFFECT AND THE PROJECTED ANNUAL AND  
27 CUMULATIVE AMOUNT OF REVENUES TO BE RAISED.

28           4. THE FORM OF THE BALLOT.

29           5. ANY ARGUMENTS FOR OR AGAINST THE BALLOT MEASURE. AFFIRMATIVE  
30 ARGUMENTS, ARRANGED IN THE ORDER IN WHICH THE ELECTIONS DIRECTOR RECEIVED  
31 THEM, SHALL BE PLACED BEFORE THE NEGATIVE ARGUMENTS, WHICH SHALL ALSO BE  
32 ARRANGED IN THE ORDER IN WHICH THEY WERE RECEIVED.

33           C. NOT LATER THAN NINETY DAYS BEFORE THE DATE OF THE ELECTION, A  
34 PERSON MAY FILE WITH THE COUNTY ELECTION OFFICER AN ARGUMENT THAT IS NOT MORE  
35 THAN THREE HUNDRED WORDS IN LENGTH AND THAT EITHER ADVOCATES FOR OR OPPOSES  
36 THE BALLOT MEASURE, SUBJECT TO THE FOLLOWING REQUIREMENTS:

37           1. THE PERSON WHO FILES THE ARGUMENT SHALL PAY TO THE ELECTION OFFICER  
38 A PUBLICATION FEE PRESCRIBED BY THE BOARD OF SUPERVISORS. PAYMENT OF THE FEE  
39 REQUIRED BY THIS PARAGRAPH, OR REIMBURSEMENT OF THE PAYOR, CONSTITUTES  
40 SPONSORSHIP OF THE ARGUMENT.

41           2. IF THE ARGUMENT IS SPONSORED BY ONE OR MORE INDIVIDUALS, THE  
42 ARGUMENT SHALL BE SIGNED BY EACH SPONSORING INDIVIDUAL.

43           3. IF THE ARGUMENT IS SPONSORED BY ONE OR MORE ORGANIZATIONS, THE  
44 ARGUMENT SHALL BE SIGNED BY TWO EXECUTIVE OFFICERS OF EACH ORGANIZATION.

1 4. IF THE ARGUMENT IS SPONSORED BY ONE OR MORE POLITICAL COMMITTEES,  
2 THE ARGUMENT SHALL BE SIGNED BY EACH COMMITTEE'S CHAIRPERSON OR TREASURER.

3 5. THE NAMES OF PERSONS WHO HAVE SIGNED ARGUMENTS AND THE NAMES OF  
4 SPONSORING ORGANIZATIONS OR POLITICAL COMMITTEES SHALL APPEAR WITH THE  
5 ARGUMENT IN THE PAMPHLET. THE PERSON OR PERSONS SIGNING THE ARGUMENT SHALL  
6 ALSO GIVE THEIR RESIDENCE OR POST OFFICE ADDRESS AND A TELEPHONE NUMBER,  
7 WHICH SHALL NOT APPEAR IN THE PAMPHLET.

8 D. IN ADDITION TO ANY OTHER BALLOT REQUIREMENTS PRESCRIBED BY LAW, THE  
9 ELECTION OFFICER SHALL CAUSE THE FOLLOWING TO BE PRINTED ON THE OFFICIAL  
10 BALLOT:

11 1. THE DESIGNATION OF THE MEASURE AS FOLLOWS: "RELATING TO  
12 INTERGOVERNMENTAL PUBLIC TRANSPORTATION AUTHORITY EXCISE (SALES) TAXES".

13 2. INSTRUCTIONS DIRECTING THE VOTER TO THE FULL TEXT OF THE OFFICIAL  
14 AND DESCRIPTIVE TITLES CONTAINING THE SUMMARY AS PRINTED IN THE SAMPLE BALLOT  
15 AND POSTED IN THE POLLING PLACE.

16 3. THE QUESTION SUBMITTED TO THE VOTERS AS FOLLOWS:  
17 DO YOU FAVOR THE LEVY OF A TRANSACTION PRIVILEGE (SALES)  
18 TAX FOR PUBLIC TRANSPORTATION PURPOSES IN \_\_\_\_\_ COUNTY?  
19 YES \_\_\_\_\_ NO \_\_\_\_\_

20 (A "YES" VOTE HAS THE EFFECT OF IMPOSING A TRANSACTION  
21 PRIVILEGE (SALES) TAX IN \_\_\_\_\_ COUNTY FOR \_\_\_\_\_ YEARS TO  
22 PROVIDE FUNDING FOR PUBLIC TRANSPORTATION PROJECTS.)

23 (A "NO" VOTE HAS THE EFFECT OF REJECTING THE TRANSACTION  
24 PRIVILEGE (SALES) TAX FOR PUBLIC TRANSPORTATION PURPOSES IN  
25 \_\_\_\_\_ COUNTY.)

26 E. FOR THE BALLOT QUESTION TO BE APPROVED, THE PROPOSED TRANSACTION  
27 PRIVILEGE TAX MUST BE APPROVED BY A MAJORITY OF THE QUALIFIED ELECTORS VOTING  
28 ON THE MEASURE.

29 F. EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION, THE ELECTION UNDER  
30 THIS SECTION SHALL BE CONDUCTED AS NEARLY AS PRACTICABLE IN THE MANNER  
31 PRESCRIBED FOR GENERAL ELECTIONS IN TITLE 16.

32 G. THE COUNTY ELECTION OFFICER SHALL ACCOUNT FOR COSTS SPECIFICALLY  
33 INCURRED WITH RESPECT TO THE BALLOT ISSUE UNDER THIS SECTION.

34 Sec. 7. Section 42-6106, Arizona Revised Statutes, is amended to read:  
35 42-6106. County transportation excise tax

36 A. If approved by the qualified electors voting at a countywide  
37 election, the regional transportation authority in any county, OR AN  
38 INTERGOVERNMENTAL PUBLIC TRANSPORTATION AUTHORITY WITH BOUNDARIES COTERMINOUS  
39 WITH THE COUNTY BOUNDARIES, shall levy and the department shall collect a  
40 transportation excise tax up to the rate authorized by this section in  
41 addition to all other taxes.

42 B. The tax shall be levied and collected:

43 1. At a rate of not more than ten ~~per-cent~~ PERCENT of the transaction  
44 privilege tax rate prescribed by section 42-5010, subsection A in effect on

1 January 1, 1990 to each person engaging or continuing in the county in a  
2 business taxed under chapter 5, article 1 of this title.

3 2. At a rate of not more than ten ~~per-cent~~ PERCENT of the rate  
4 prescribed by section 42-5352, subsection A.

5 3. On the use or consumption of electricity or natural gas by retail  
6 electric or natural gas customers in the county who are subject to use tax  
7 under section 42-5155, at a rate equal to the transaction privilege tax rate  
8 under paragraph 1 OF THIS SUBSECTION applying to persons engaging or  
9 continuing in the county in the utilities transaction privilege tax  
10 classification.

11 C. Any subsequent reduction in the transaction privilege tax rate  
12 prescribed by chapter 5, article 1 of this title shall not reduce the tax  
13 that is approved and collected as prescribed in this section. The department  
14 shall collect the tax at a variable rate if the variable rate is specified in  
15 the ballot proposition. The department shall collect the tax at a modified  
16 rate if approved by a majority of the qualified electors voting.

17 D. The net revenues collected under this section:

18 1. In counties with a population exceeding four hundred thousand  
19 persons, shall be deposited in the regional transportation fund pursuant to  
20 section 48-5307.

21 2. In counties with a population of four hundred thousand or fewer  
22 persons, shall be deposited in the public transportation authority fund  
23 pursuant to section 28-9142 or the regional transportation fund pursuant to  
24 section 48-5307 or shall be allocated between both funds.

25 3. IN INTERGOVERNMENTAL PUBLIC TRANSPORTATION AUTHORITIES, SHALL BE  
26 DEPOSITED IN THE PUBLIC TRANSPORTATION AUTHORITY FUND PURSUANT TO SECTION  
27 28-9142.

28 E. The tax shall be levied under this section beginning January 1 or  
29 July 1, whichever date occurs first after approval by the voters, and may be  
30 in effect for a period of not more than twenty years.