

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

CHAPTER 114
SENATE BILL 1501

AN ACT

AMENDING SECTIONS 41-1502, 41-1504 AND 41-1545.04, ARIZONA REVISED STATUTES;
REPEALING SECTION 41-3016.29, ARIZONA REVISED STATUTES; AMENDING TITLE 41,
CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION
41-3018.01; RELATING TO THE ARIZONA COMMERCE AUTHORITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-1502, Arizona Revised Statutes, is amended to
3 read:

4 41-1502. Arizona commerce authority; board of directors;
5 conduct of office; audit

6 A. The Arizona commerce authority is established. The mission of the
7 authority is to provide private sector leadership in growing and diversifying
8 the economy of this state, creating high quality employment in this state
9 through expansion, attraction and retention of businesses and marketing this
10 state for the purpose of expansion, attraction and retention of businesses.

11 B. The authority shall be governed by a board of directors consisting
12 of:

13 1. The governor, who serves as chairperson.

14 2. The chief executive officer.

15 3. Seventeen private sector business leaders who are chief executive
16 officers of private, for-profit enterprises. None of these members may be an
17 elected official of any government entity. These members must be appointed
18 from geographically diverse areas of this state and not all from the same
19 county. These members shall serve staggered three-year terms of office
20 beginning and ending on the third Monday in January. These members shall be
21 appointed as follows:

22 (a) Nine members who are appointed by the governor.

23 (b) Four members who are appointed by the president of the senate.

24 (c) Four members who are appointed by the speaker of the house of
25 representatives.

26 4. The following as ex officio members without the power to vote:

27 (a) The president of the senate.

28 (b) The speaker of the house of representatives.

29 (c) The president of the Arizona board of regents.

30 (d) The president of each state university under the jurisdiction of
31 the Arizona board of regents.

32 (e) One president of a community college who is appointed by a
33 statewide organization of community college presidents.

34 (f) The chairperson of the governor's council on small business, or
35 its successor.

36 (g) The chairperson of the governor's council on workforce policy, if
37 established by executive order pursuant to section 41-1542.

38 (h) One member of the rural business development advisory council
39 established by section 41-1505 who is appointed by the governor.

40 (i) The president of a statewide organization of incorporated cities
41 and towns who is appointed by the governor.

42 (j) The president of a statewide organization of county boards of
43 supervisors who is appointed by the governor.

44 C. The following shall serve as technical advisors to the board to
45 enhance collaboration among state agencies to meet infrastructure needs and
46 facilitate growth opportunities throughout this state:

- 1 1. The director of environmental quality.
- 2 2. The state land commissioner.
- 3 3. The director of the department of revenue.
- 4 4. The director of the office of tourism.
- 5 5. The director of the department of transportation.
- 6 6. The director of water resources.
- 7 7. The director of the department of financial institutions.
- 8 8. The director of the Arizona-Mexico commission in the governor's
- 9 office.

10 D. The governor shall appoint a cochairperson of the board of
11 directors from among the voting members. The board may establish an
12 executive committee consisting of the chairperson, the cochairperson, the
13 chief executive officer, and additional voting members of the board elected
14 by the board. The chairperson may appoint subcommittees as necessary.

15 E. The board may request assistance from representatives of other
16 state agencies to maximize economic development opportunities by leveraging
17 their access to strategic assets and planning processes.

18 F. Board members serve without compensation but are eligible for
19 reimbursement of expenses pursuant to section 41-1504, subsection E,
20 paragraph 1.

21 G. A majority of the voting members, which must include the
22 chairperson and the chief executive officer, constitute a quorum for the
23 purpose of an official meeting for conducting business. An affirmative vote
24 of a majority of the members present at an official meeting is sufficient for
25 any action to be taken.

26 H. The board of directors shall keep and maintain a complete and
27 accurate record of all of its proceedings. Public access to the board's
28 records is subject to section 41-1504, subsection L.

29 I. The board of directors, executive committee, subcommittees and
30 advisory councils are subject to title 38, chapter 3, article 3.1, relating
31 to public meetings, except as follows:

32 1. In addition to section 38-431.03, the board of directors, executive
33 committee and subcommittees may meet in executive session for discussion
34 about potential business development opportunities and strategies, which, if
35 made public, could potentially harm the applicant's, the potential
36 applicant's or this state's competitive position.

37 2. Social and travel events related to the expansion, attraction and
38 retention of businesses are not public meetings if no legal action involving
39 a final vote or decision is taken.

40 3. Activities and events held in public for the purpose of announcing
41 the expansion, attraction and retention of projects are not public meetings.

42 J. The board of directors and the officers and employees of the
43 authority are subject to title 38, chapter 3, article 8, relating to
44 conflicts of interest.

1 K. The board of directors shall adopt written policies, procedures and
2 guidelines for standards of conduct, including a gift policy, for members of
3 the board and for officers and employees of the authority.

4 L. THE COMPENSATION OF ALL OFFICERS AND EMPLOYEES IS CONSIDERED A
5 PUBLIC RECORD PURSUANT TO TITLE 39, CHAPTER 1.

6 ~~L.~~ M. The authority shall operate on the state fiscal year. The
7 board of directors shall cause an annual audit to be conducted on or before
8 October 31 of each of the authority's public funds established by this
9 chapter by an independent certified public accountant. The board shall
10 immediately file a certified copy of the audit with the auditor general. The
11 auditor general may make such further audits and examinations as necessary
12 and may take appropriate action relating to the audit or examination pursuant
13 to chapter 7, article 10.1 of this title. If the auditor general takes no
14 further action within thirty days after the audit is filed, the audit is
15 considered to be sufficient.

16 ~~M.~~ N. All state agencies shall cooperate with the authority and make
17 available data pertaining to the functions of the authority as requested by
18 the authority.

19 Sec. 2. Section 41-1504, Arizona Revised Statutes, is amended to read:

20 41-1504. Powers and duties; e-verify requirement

21 A. The board of directors, on behalf of the authority, may:

- 22 1. Adopt and use a corporate seal.
- 23 2. Sue and be sued.

24 3. Enter into contracts as necessary to carry out the purposes and
25 requirements of this chapter, including intergovernmental agreements pursuant
26 to title 11, chapter 7, article 3 and interagency service agreements as
27 provided by section 35-148.

28 4. Lease real property and improvements to real property for the
29 purposes of the authority. Leases by the authority are exempt from chapter
30 4, article 7 of this title, relating to management of state properties.

31 5. Employ or retain legal counsel and other consultants as necessary
32 to carry out the purposes of the authority.

33 6. Develop and use written policies, procedures and guidelines for the
34 terms and conditions of employing officers and employees of the authority and
35 may include background checks of appropriate personnel.

36 B. The board of directors, on behalf of the authority, shall:

37 1. Develop comprehensive long-range strategic economic plans for this
38 state and submit the plans to the governor.

39 2. Annually update a strategic economic plan for submission to the
40 governor.

41 3. Accept gifts, grants and loans and enter into contracts and other
42 transactions with any federal or state agency, municipality, private
43 organization or other source.

44 C. The authority shall:

45 1. Assess and collect fees for processing applications and
46 administering incentives. The board shall adopt the manner of computing the

1 amount of each fee to be assessed. Within thirty days after proposing fees
2 for adoption, the chief executive officer shall submit a schedule of the fees
3 for review by the joint legislative budget committee. It is the intent of
4 the legislature that a fee shall not exceed one ~~per-cent~~ PERCENT of the
5 amount of the incentive.

6 2. Determine and collect registry fees for the administration of the
7 allocation of federal tax exempt industrial development bonds and student
8 loan bonds authorized by the authority. Such monies collected by the
9 authority shall be deposited, pursuant to sections 35-146 and 35-147, in an
10 authority bond fund. Monies in the fund shall be used, subject to annual
11 appropriation by the legislature, by the authority to administer the
12 allocations provided in this paragraph and are exempt from the provisions of
13 section 35-190 relating to the lapsing of appropriations.

14 3. Determine and collect security deposits for the allocation, for the
15 extension of allocations and for the difference between allocations and
16 principal amounts of federal tax exempt industrial development bonds and
17 student loan bonds authorized by the authority. Security deposits forfeited
18 to the authority shall be deposited in the state general fund.

19 4. At the direction of the board, establish and supervise the
20 operations of full-time or part-time offices in other states and foreign
21 countries for the purpose of expanding direct investment and export trade
22 opportunities for businesses and industries in this state if, based on
23 objective research, the authority determines that the effort would be
24 beneficial to the economy of this state.

25 5. Establish a program by which entrepreneurs become aware of permits,
26 licenses or other authorizations needed to establish, expand or operate in
27 this state.

28 6. Be the state registration agency for apprenticeship functions
29 prescribed by the federal government.

30 7. POST ON ITS WEBSITE ON AN ANNUAL BASIS A REPORT CONTAINING AT LEAST
31 THE FOLLOWING INFORMATION:

32 (a) THE CUMULATIVE PROGRESS MADE TOWARD ITS GOALS FOR JOB CREATION,
33 CAPITAL INVESTMENT AND HIGHER AVERAGE WAGES.

34 (b) TO THE EXTENT NOT PROHIBITED BY LAW, INFORMATION ON EACH INCENTIVE
35 APPLICATION APPROVED BY THE AUTHORITY IN THE FISCAL YEAR, INCLUDING THE
36 AMOUNT OF THE INCENTIVE APPROVED OR AWARDED AND THE APPLICANT'S ACTIVITY THAT
37 IS PROJECTED OR HAS BEEN ACHIEVED, WHICHEVER IS APPLICABLE, TO QUALIFY FOR
38 THE INCENTIVE.

39 8. DEVELOP AND IMPLEMENT WRITTEN POLICIES AND PROCEDURES RELATING TO
40 THE ADMINISTRATION OF GRANTS FROM THE ARIZONA COMPETES FUND ESTABLISHED BY
41 SECTION 41-1545.01, INCLUDING THE FOLLOWING ELEMENTS:

42 (a) PROCEDURES FOR DOCUMENTING GRANTEE SELECTION AND DUE DILIGENCE.

43 (b) PROCEDURES FOR VERIFICATION OF INFORMATION SUBMITTED BY GRANTEES.

44 (c) PROCEDURES FOR EVALUATING REQUESTS TO AMEND GRANT TERMS AND FOR
45 DOCUMENTING DECISIONS RELATING TO THOSE REQUESTS.

46 D. The authority, through the chief executive officer, may:

1 1. Contract and incur obligations reasonably necessary or desirable
2 within the general scope of the authority's activities and operations to
3 enable the authority to adequately perform its duties.

4 2. Use monies, facilities or services to provide matching
5 contributions under federal or other programs that further the objectives and
6 programs of the authority.

7 3. Accept gifts, grants, matching monies or direct payments from
8 public or private agencies or private persons and enterprises for the conduct
9 of programs that are consistent with the general purposes and objectives of
10 this chapter.

11 4. Assess business fees for promotional services provided to
12 businesses that export products and services from this state. The fees shall
13 not exceed the actual costs of the services provided.

14 5. Establish and maintain one or more accounts in banks or other
15 depositories, for public or private monies of the authority, from which
16 operational activities, including payroll, vendor and grant payments, may be
17 conducted. Individual funds that are established by law under the
18 jurisdiction of the authority may be maintained in separate accounts in banks
19 or other depositories, but shall not be commingled with any other monies or
20 funds of the authority.

21 E. The chief executive officer shall:

22 1. Hire employees and prescribe the terms and conditions of their
23 employment as necessary to carry out the purposes of the authority. The
24 board of directors shall adopt written policies, procedures and guidelines,
25 similar to those adopted by the department of administration, regarding
26 officer and employee compensation, observed holidays, leave and reimbursement
27 of travel expenses and health and accident insurance. The officers and
28 employees of the authority are exempt from any laws regulating state
29 employment, including:

30 (a) Chapter 4, articles 5 and 6 of this title, relating to state
31 service.

32 (b) Title 38, chapter 4, article 1 and chapter 5, article 2, relating
33 to state personnel compensation, leave and retirement.

34 (c) Title 38, chapter 4, article 2, relating to reimbursement of state
35 employee expenses.

36 (d) Title 38, chapter 4, article 4, relating to health and accident
37 insurance.

38 2. On a quarterly basis, provide public record data in a manner
39 prescribed by the department of administration related to the authority's
40 revenues and expenditures for inclusion in the comprehensive database of
41 receipts and expenditures of state monies pursuant to section 41-725.

42 F. In addition to any other requirement, in order to qualify for any
43 grant, loan, reimbursement, tax incentive or other economic development
44 incentive pursuant to this chapter, an applicant that is an employer must
45 register with and participate in the e-verify program in compliance with

1 section 23-214. The authority shall require verification of compliance with
2 this subsection as part of any application process.

3 G. Notwithstanding any other law, the authority is subject to chapter
4 3.1, article 1 of this title, relating to risk management.

5 H. The authority is exempt from chapter 32, articles 1 and 2 of this
6 title, relating to statewide information technology. The authority shall
7 adopt policies, procedures and guidelines regarding information technology.

8 I. The authority is exempt from state general accounting and finance
9 practices and rules adopted pursuant to chapter 4, article 3 of this title,
10 but the board shall adopt written accounting practices, systems and
11 procedures for the economic and efficient operation of the authority.

12 J. The authority is exempt from section 41-712, relating to the
13 installation and maintenance of ~~telecommunications~~ TELECOMMUNICATION systems.

14 K. The authority may lease or purchase motor vehicles for use by
15 employees to conduct business activities. The authority is exempt from
16 section 41-803, relating to the state motor vehicle fleet, and title 38,
17 chapter 3, article 10, relating to vehicle usage and markings.

18 L. Any tangible or intangible record submitted to or compiled by the
19 board or the authority in connection with its work, including the award of
20 monies, is subject to title 39, chapter 1, unless an applicant shows, or the
21 board or authority determines, that specific information meets either of the
22 following:

23 1. If made public, the information would divulge the applicant's or
24 potential applicant's trade secrets, as defined in section 44-401.

25 2. If made public, the information could potentially harm the
26 applicant's, THE potential applicant's or this state's competitive position
27 relating to potential business development opportunities and strategies.

28 M. The authority is exempt from chapter 25, article 1 of this title,
29 relating to government competition with private enterprise.

30 Sec. 3. Section 41-1545.04, Arizona Revised Statutes, is amended to
31 read:

32 41-1545.04. Report on use of monies in the Arizona competes
33 fund

34 A. On or before November 1 of each year, the authority shall submit to
35 the president of the senate, the speaker of the house of representatives and
36 the joint legislative budget committee a report on grants made from the
37 Arizona competes fund under this article in the preceding fiscal year and all
38 projects currently being funded from the Arizona competes fund. The
39 authority shall provide a copy of the report to the secretary of state AND
40 POST A COPY ON THE AUTHORITY'S WEBSITE. The report shall include:

41 1. THE NAME OF EACH GRANT RECIPIENT.

42 ~~1-~~ 2. The number of direct jobs each GRANT recipient committed to
43 create in this state IN CONNECTION WITH THE GRANT.

44 ~~2-~~ 3. The number of direct jobs each GRANT recipient actually created
45 in this state IN CONNECTION WITH THE GRANT.

46 ~~3. The median wage of the jobs each recipient created in this state.~~

1 4. THE NUMBER OF DIRECT JOBS EACH GRANT RECIPIENT ACTUALLY CREATED IN
2 COMPARISON TO THE NUMBER OF JOBS THAT THE RECIPIENT COMMITTED TO CREATE IN
3 THE STATE IN CONNECTION WITH THE GRANT.

4 5. THE AVERAGE ANNUAL WAGE EACH GRANT RECIPIENT COMMITTED TO PAY FOR
5 THE DIRECT JOBS ASSOCIATED WITH THE GRANT.

6 6. THE AVERAGE ANNUAL WAGE EACH GRANT RECIPIENT ACTUALLY PAYS FOR THE
7 DIRECT JOBS ASSOCIATED WITH THE GRANT.

8 ~~4.~~ 7. The amount of capital investment each GRANT recipient committed
9 to spend or allocate IN CONNECTION WITH THE GRANT, INCLUDING ANY INVESTMENTS
10 BY THIRD PARTY DEVELOPERS OF BUILD TO SUIT FACILITIES, per project in this
11 state.

12 ~~5.~~ 8. The amount of capital investment each GRANT recipient actually
13 spent or allocated ~~per project in this state~~ IN CONNECTION WITH THE GRANT.

14 ~~6.~~ 9. The total amount of grants made to each recipient.

15 ~~7.~~ 10. The average amount of money granted from the Arizona competes
16 fund for each job created in this state by grant recipients.

17 ~~8.~~ 11. The number of jobs created in this state by grant recipients
18 in each sector of the North American industry classification system.

19 ~~9.~~ 12. Of the number of direct jobs each recipient created in this
20 state, the ~~number of positions created that provide health benefits for~~
21 ~~employees~~ PERCENTAGE OF THE HEALTH INSURANCE PREMIUM OR MEMBERSHIP COST
22 OFFERED BY THE RECIPIENT TO EMPLOYEES.

23 13. THE TOTAL AMOUNT OF GRANTS ISSUED BY THE AUTHORITY SINCE THE LAST
24 ANNUAL REPORT.

25 B. The report shall not include information that is made confidential
26 by law.

27 C. The authority may require grant recipients to submit information in
28 a form required to complete the report.

29 Sec. 4. Repeal

30 Section ~~41-3016.29~~, Arizona Revised Statutes, is repealed.

31 Sec. 5. Title 41, chapter 27, article 2, Arizona Revised Statutes, is
32 amended by adding section 41-3018.01, to read:

33 ~~41-3018.01.~~ Arizona commerce authority; termination July 1,
34 2018

35 A. THE ARIZONA COMMERCE AUTHORITY TERMINATES ON JULY 1, 2018.

36 B. TITLE 41, CHAPTER 10 IS REPEALED ON JANUARY 1, 2019.

37 Sec. 6. Purpose

38 Pursuant to section 41-2955, subsection B, Arizona Revised Statutes,
39 the legislature continues the Arizona commerce authority to facilitate the
40 beneficial economic growth and development of this state and to promote
41 prosperity through the development and protection of the legitimate interests
42 of Arizona business, industry and commerce within and outside this state.

43 Sec. 7. Retroactivity

44 Sections 4 and 5 of this act are effective retroactively to July 1,
45 2016.

S.B. 1501

APPROVED BY THE GOVERNOR MAY 6, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2016.