

State of Arizona
Senate
Forty-third Legislature
Second Regular Session
1998

SENATE BILL 1426

AN ACT

AMENDING TITLE 42, CHAPTER 8.3, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; TRANSFERRING AND RENUMBERING SECTION 42-1491, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 42, CHAPTER 6, ARTICLE 3, ARIZONA REVISED STATUTES, AS SECTION 42-6109; AMENDING SECTION 42-6109, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; PROVIDING FOR THE DELAYED REPEAL OF THE HEADING OF TITLE 42, CHAPTER 8.3, ARTICLE 2; RELATING TO COUNTY EXCISE TAX.

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

Section 1. Title 42, chapter 8.3, Arizona Revised Statutes, is amended by adding article 2, to read:

ARTICLE 2. COUNTY JAIL FACILITIES EXCISE TAX

42-1491. Jail facilities excise tax; maintenance of effort; definition

A. IF APPROVED BY THE QUALIFIED ELECTORS VOTING AT A COUNTYWIDE GENERAL ELECTION, A COUNTY WITH A POPULATION OF AT LEAST ONE MILLION FIVE HUNDRED THOUSAND PERSONS SHALL LEVY AND THE DEPARTMENT SHALL COLLECT A TRANSACTION PRIVILEGE TAX, IN ADDITION TO ALL OTHER TAXES, AT RATES OF NOT MORE THAN 4.0 PER CENT OF THE TRANSACTION PRIVILEGE TAX RATE APPLYING TO EACH PERSON ENGAGING OR CONTINUING IN THE COUNTY IN A BUSINESS TAXED UNDER CHAPTER 8, ARTICLE 1 OF THIS TITLE.

B. THE TAX SHALL BE LEVIED UNDER THIS SECTION BEGINNING JANUARY 1 OR JULY 1, WHICHEVER DATE FIRST OCCURS AFTER APPROVAL BY THE VOTERS, AND MAY CONTINUE IN EFFECT UNTIL THE AMOUNT OF NINE HUNDRED MILLION DOLLARS OF REVENUE IS COLLECTED, AS DETERMINED BY THE DEPARTMENT OF REVENUE, BUT IN ANY EVENT NOT MORE THAN NINE YEARS AS ADOPTED BY RESOLUTION OF THE COUNTY BOARD OF SUPERVISORS BEFORE THE ELECTION AND AS APPROVED BY THE VOTERS. THE BOARD OF SUPERVISORS MAY, BY RESOLUTION, DECREASE OR INCREASE THE RATES OF TAX

1 DURING THE TERM OF THE TAX, SUBJECT TO THE MAXIMUM RATES PRESCRIBED BY THIS
2 SECTION.

3 C. UNLESS THE CONTEXT OTHERWISE REQUIRES, SECTION 42-1485 GOVERNS THE
4 ADMINISTRATION OF THE TAX IMPOSED PURSUANT TO THIS SECTION.

5 D. AT THE END OF EACH MONTH THE STATE TREASURER SHALL TRANSMIT THE NET
6 REVENUES COLLECTED PURSUANT TO THIS SECTION TO THE TREASURER OF THE COUNTY
7 LEVYING THE TAX. IF THE COUNTY THAT INITIALLY IMPOSES THE TAX UNDER THIS
8 SECTION IS DIVIDED INTO TWO OR MORE NEW COUNTIES DURING THE TERM OF THE TAX,
9 EACH NEW COUNTY SHALL CONTINUE TO IMPOSE THE TAX, BUT THE STATE TREASURER
10 SHALL TRANSMIT THE NET REVENUES COLLECTED WITHIN BOTH COUNTIES EQUALLY TO
11 EACH OF THE NEW COUNTIES. THE COUNTY TREASURER SHALL SEGREGATE ALL THE
12 MONIES RECEIVED UNDER THIS SECTION FOR USE ONLY FOR THE PURPOSES AUTHORIZED
13 BY THIS SECTION. THE COUNTY TREASURER MAY DISBURSE MONIES FROM THE FUND ONLY
14 TO:

15 1. FINANCE CONSTRUCTION OF NEW ADULT AND JUVENILE JAIL FACILITIES.
16 2. MAINTAIN AND OPERATE ADULT AND JUVENILE JAIL FACILITIES.
17 3. FUND THE FOLLOWING FOR THE PURPOSE OF REDUCING THE EXPENSE OF ADULT
18 AND JUVENILE JAIL FACILITIES:

19 (a) IMPLEMENTING AN INTEGRATED CRIMINAL JUSTICE INFORMATION SYSTEM.
20 (b) DEVELOPING REGIONAL CENTERS FOR COURTS NOT OF RECORD.
21 (c) IMPLEMENTING DIFFERENTIATED CASE MANAGEMENT FOR CRIMINAL CASES IN
22 SUPERIOR COURT.
23 (d) CONSOLIDATING CRIMINAL DIVISIONS OF THE SUPERIOR COURT IN THE
24 COUNTY TO A COMMON LOCATION.
25 (e) EXPANDING PRETRIAL RELEASE SUPERVISION.
26 (f) IMPLEMENTING ELECTRONIC MONITORING OF PREADJUDICATED DEFENDANTS.
27 (g) ENHANCING SUBSTANCE ABUSE EVALUATION AND PROGRAMMING.
28 (h) INCREASING DRUG COURT ADMISSIONS TO INCLUDE PREADJUDICATED
29 DEFENDANTS AND EXPANDING DRUG COURT JURISDICTION.
30 (i) USING COMMUNITY BASED JUVENILE DETENTION AND POSTADJUDICATION
31 PROGRAMS.

32 E. THE COUNTY SHALL MAINTAIN ITS SUPPORT OF ADULT AND JUVENILE JAIL
33 FACILITIES. THE COUNTY SHALL DETERMINE THE AMOUNT THE COUNTY SPENT FOR
34 MAINTENANCE AND OPERATION OF ADULT AND JUVENILE JAIL FACILITIES IN THE FISCAL
35 YEAR IMMEDIATELY PRECEDING THE FIRST FISCAL YEAR IN WHICH THE TAX IS LEVIED
36 UNDER THIS SECTION. THE AUDITOR GENERAL SHALL AUDIT THIS AMOUNT AND THE
37 AUDITED AMOUNT IS THE BASE EXPENDITURE. ANY OUTSTANDING DEBT DUE FROM A
38 CITY, THIS STATE OR THE UNITED STATES FOR THE COUNTY HOUSING PRISONERS
39 PURSUANT TO SECTION 31-121 SHALL BE EXCLUDED FROM THE BASE EXPENDITURE. IN
40 THE FIRST YEAR THE TAX IS LEVIED UNDER THIS SECTION THE COUNTY SHALL PAY AN
41 AMOUNT EQUAL TO THE BASE EXPENDITURE ADJUSTED BY THE PERCENTAGE CHANGE IN THE
42 ASSESSED VALUATION OF THE TAXABLE PROPERTY IN THE COUNTY, DETERMINED FOR
43 SECONDARY PROPERTY TAX PURPOSES, FROM THE PRECEDING YEAR. IN EACH YEAR THE

1 TAX IS IMPOSED, THE COUNTY SHALL PAY AN AMOUNT EQUAL TO THE AMOUNT PAID UNDER
2 THIS SUBSECTION IN THE PRECEDING FISCAL YEAR, ADJUSTED BY THE PERCENTAGE
3 CHANGE IN THE ASSESSED VALUATION OF THE TAXABLE PROPERTY IN THE COUNTY,
4 DETERMINED FOR SECONDARY PROPERTY TAX PURPOSES, FROM THE PRECEDING YEAR. THE
5 COUNTY TREASURER SHALL TRANSFER THAT AMOUNT, WITHOUT FURTHER AUTHORIZATION,
6 IN TWELVE EQUAL MONTHLY INSTALLMENTS FROM THE COUNTY GENERAL FUND FOR THE
7 USES PRESCRIBED IN SUBSECTION D OF THIS SECTION. FOR PURPOSES OF THIS
8 SUBSECTION, "MAINTENANCE AND OPERATION" INCLUDES DETENTION PERSONNEL
9 COMPENSATION, EMPLOYEE RELATED EXPENSES, UTILITY EXPENSES OF THE FACILITY,
10 COSTS OF FOOD AND CARE OF PRISONERS, ADMINISTRATIVE SUPPORT COSTS AND COSTS
11 OF MAINTAINING AND REPAIRING THE FACILITY AND GROUNDS.

12 F. FOR THE PURPOSES OF THIS SECTION, "JAIL FACILITY" MEANS A JAIL OR
13 OTHER PLACE OF DETENTION OF PERSONS CHARGED WITH OR CONVICTED OF A CRIME OR
14 OF PERSONS WHO ARE SUBJECT TO THE JURISDICTION OF THE JUVENILE COURT.

15 Sec. 2. Transfer and renumber

16 Section 42-1491, Arizona Revised Statutes, as added by this act, is
17 transferred and renumbered from and after December 31, 1998 for placement in
18 title 42, chapter 6, article 3, Arizona Revised Statutes, as section 42-6109.

19 Sec. 3. Delayed repeal

20 The heading of title 42, chapter 8.3, article 2, Arizona Revised
21 Statutes, as added by this act is repealed from and after December 31, 1998.

22 Sec. 4. Section 42-6109, Arizona Revised Statutes, as transferred and
23 renumbered is amended from and after December 31, 1998 to read:

24 42-6109. Jail facilities excise tax; maintenance of effort;
25 definition

26 A. If approved by the qualified electors voting at a countywide
27 general election, a county with a population of at least one million five
28 hundred thousand persons shall levy and the department shall collect a
29 transaction privilege tax, in addition to all other taxes, at rates of not
30 more than 4.0 per cent of the transaction privilege tax rate applying to each
31 person engaging or continuing in the county in a business taxed under chapter
32 ~~8~~ 5, article 1 of this title.

33 B. The tax shall be levied under this section beginning January 1 or
34 July 1, whichever date first occurs after approval by the voters, and may
35 continue in effect until the amount of nine hundred million dollars of
36 revenue is collected, as determined by the department of revenue, but in any
37 event not more than nine years as adopted by resolution of the county board
38 of supervisors before the election and as approved by the voters. The board
39 of supervisors may, by resolution, decrease or increase the rates of tax
40 during the term of the tax, subject to the maximum rates prescribed by this
41 section.

42 ~~C. Unless the context otherwise requires, section 42-1485 governs the~~
43 ~~administration of the tax imposed pursuant to this section.~~

1 ~~D.~~ C. At the end of each month the state treasurer shall transmit the
2 net revenues collected pursuant to this section to the treasurer of the
3 county levying the tax. If the county that initially imposes the tax under
4 this section is divided into two or more new counties during the term of the
5 tax, each new county shall continue to impose the tax, but the state
6 treasurer shall transmit the net revenues collected within both counties
7 equally to each of the new counties. The county treasurer shall segregate
8 all the monies received under this section for use only for the purposes
9 authorized by this section. The county treasurer may disburse monies from
10 the fund only to:

- 11 1. Finance construction of new adult and juvenile jail facilities.
- 12 2. Maintain and operate adult and juvenile jail facilities.
- 13 3. Fund the following for the purpose of reducing the expense of adult
14 and juvenile jail facilities:
 - 15 (a) Implementing an integrated criminal justice information system.
 - 16 (b) Developing regional centers for courts not of record.
 - 17 (c) Implementing differentiated case management for criminal cases in
18 superior court.
 - 19 (d) Consolidating criminal divisions of the superior court in the
20 county to a common location.
 - 21 (e) Expanding pretrial release supervision.
 - 22 (f) Implementing electronic monitoring of preadjudicated defendants.
 - 23 (g) Enhancing substance abuse evaluation and programming.
 - 24 (h) Increasing drug court admissions to include preadjudicated
25 defendants and expanding drug court jurisdiction.
 - 26 (i) Using community based juvenile detention and postadjudication
27 programs.

28 ~~E.~~ D. The county shall maintain its support of adult and juvenile
29 jail facilities. The county shall determine the amount the county spent for
30 maintenance and operation of adult and juvenile jail facilities in the fiscal
31 year immediately preceding the first fiscal year in which the tax is levied
32 under this section. The auditor general shall audit this amount and the
33 audited amount is the base expenditure. Any outstanding debt due from a
34 city, this state or the United States for the county housing prisoners
35 pursuant to section 31-121 shall be excluded from the base expenditure. In
36 the first year the tax is levied under this section the county shall pay an
37 amount equal to the base expenditure adjusted by the percentage change in the
38 assessed valuation of the taxable property in the county, determined for
39 secondary property tax purposes, from the preceding year. In each year the
40 tax is imposed, the county shall pay an amount equal to the amount paid under
41 this subsection in the preceding fiscal year, adjusted by the percentage
42 change in the assessed valuation of the taxable property in the county,
43 determined for secondary property tax purposes, from the preceding year. The

1 county treasurer shall transfer that amount, without further authorization,
2 in twelve equal monthly installments from the county general fund for the
3 uses prescribed in subsection D of this section. For purposes of this
4 subsection, "maintenance and operation" includes detention personnel
5 compensation, employee related expenses, utility expenses of the facility,
6 costs of food and care of prisoners, administrative support costs and costs
7 of maintaining and repairing the facility and grounds.

8 ~~F.~~ E. For the purposes of this section, "jail facility" means a jail
9 or other place of detention of persons charged with or convicted of a crime
10 or of persons who are subject to the jurisdiction of the juvenile court.

11 Sec. 5. Election in counties with a population of at least
12 one million five hundred thousand persons to
13 levy jail facilities excise tax; publicity
14 pamphlet; fee; ballot

15 A. The board of supervisors of a county with a population of at least
16 one million five hundred thousand persons according to the most recent United
17 States decennial census may place the issue of a jail facilities excise tax
18 as provided by this act on the ballot of the 1998 general election.

19 B. The board shall prepare and print publicity pamphlets concerning
20 the ballot measure and distribute one copy of the pamphlet to each household
21 containing a registered voter in the county. The publicity pamphlets shall
22 be mailed at the same time as the publicity pamphlets relating to statewide
23 ballot issues under section 19-123, Arizona Revised Statutes. The publicity
24 pamphlets shall contain all of the following:

25 1. A true copy of the title and text of the resolution levying the
26 taxes.

27 2. The purposes for which the tax monies may be spent and the
28 limitations on the amounts to be spent as provided by law.

29 3. The number of years the taxes will be in effect, and an estimate
30 of the annual amount of tax revenues to be raised.

31 4. The form in which the measure will appear on the ballot, the
32 official title, the descriptive title containing the summary as provided in
33 subsection D of this section prepared by the county elections director and
34 the number by which the measure will be designated.

35 5. Any arguments for or against the ballot measure. Affirmative
36 arguments, arranged in the order in which the elections director received
37 them, shall be placed before the negative arguments, also arranged in the
38 order in which they were received.

39 C. At least sixty days before the election a person may file with the
40 elections director an argument, not more than three hundred words in length,
41 advocating or opposing the ballot measure. The person who files the argument
42 shall also pay to the elections director a publication fee prescribed by the
43 board of supervisors. If the argument is sponsored by one or more

1 individuals, the argument shall be signed by each sponsoring individual. If
2 the argument is sponsored by one or more organizations, the argument shall
3 be signed by two executive officers of each organization. If the argument
4 is sponsored by one or more political committees, the argument shall be
5 signed by each committee's chairman or treasurer. Payment of the fee
6 required by this subsection, or reimbursement of the payor, constitutes
7 sponsorship of the argument. The names of persons who have signed arguments
8 and the names of sponsoring organizations shall appear with the argument in
9 the pamphlet. The person or persons signing the argument shall also give
10 their residence or post office address and a telephone number, which shall
11 not appear in the pamphlet.

12 D. In addition to any other ballot requirements prescribed by law, the
13 elections director shall cause to be printed on the official ballot all of
14 the following:

15 1. The official title and number of the measure to be voted on at the
16 special or general election.

17 2. A descriptive title, not exceeding fifty words, containing a
18 summary of the principal provisions of the measure and the purposes for which
19 the taxes may be spent. The descriptive title shall be prepared by the
20 elections director and approved by the county attorney.

21 3. The phrases:

22 A "yes" vote has the effect of _____.

23 A "no" vote has the effect of _____.

24 The blank spaces shall be filled with a brief phrase, approved by the county
25 attorney, stating the essential effect of yes and no votes.

26 Sec. 6. Delayed repeal

27 Section 5 of this act, relating to elections to approve jail facilities
28 excise taxes, is repealed from and after December 31, 1999.