State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

HOUSE BILL 2172

AN ACT

AMENDING SECTIONS 28-5631 AND 28-5925, ARIZONA REVISED STATUTES; REPEALING SECTION 28-5926, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 16, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 28-5926; AMENDING SECTIONS 28-7143 AND 28-7510, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF TRANSPORTATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 28-5631, Arizona Revised Statutes, is amended to read:

28-5631. Bonds; amount; failure of security

A. A supplier shall file a bond with the director on a form approved by the director with a surety company authorized by the ARIZONA corporation commission to transact business in this state as surety on the bond. The supplier shall be the principal obligor, and this state shall be the obligee on the bond. The bond shall be conditioned on the prompt filing of true reports and the payment by the supplier to the director of all motor fuel taxes that are levied or imposed by this state, together with all penalties and interest on the taxes, and generally on faithful compliance with this article.

B. The director shall fix the total amount of the bond required of a supplier and may increase or reduce the amount at any time, subject to the limitations provided in this article. In fixing the total amount of the bond required of a supplier, the director shall require a bond in an amount equal to two times the director's estimate of the supplier's monthly tax, determined in a manner the director deems proper. The total amount of the bond required of a supplier shall be at least five thousand but not more than one FIVE million dollars.

C. A supplier may request in writing that the director return, refund or release a bond required pursuant to this section. The director may return, refund or release a bond if the director determines that the supplier has continuously complied with this article for at least the previous three consecutive years. If the director determines that the return, refund or release of the bond would jeopardize state revenues, the director may elect to retain the bond or may reimpose a requirement for a bond. A person who is aggrieved by a decision of the director pursuant to this subsection may request a hearing pursuant to section 28-5924.

D. If liability on the bond filed by the supplier with the director is discharged or reduced or if in the opinion of the director a surety on the bond given has become unsatisfactory or unacceptable, the director may require the supplier to file a new bond with satisfactory sureties in the same amount. If the supplier fails to file a new bond as required, the director shall cancel the license of the supplier immediately. If the new bond is furnished by the supplier, the director shall cancel and surrender the bond for which the new bond is substituted.

E. If on a hearing, of which the supplier was given five days' notice in writing mailed to the supplier's last known address, the director decides that the amount of the existing bond is insufficient to ensure payment to this state of the amount of the tax, penalties and interest for which the supplier is or may become liable, the supplier, on the written demand of the director, shall immediately file an additional bond in the same manner and form with a surety company on the bond approved by the director in an amount
determined by the director as necessary to secure at all times payment by the
supplier of all taxes, penalties and interest due under this article. If the
supplier fails to file an additional bond as required, the director shall
cancel the license of the supplier immediately.

F. A surety on a bond furnished by a supplier shall be released and
discharged from all liability to this state accruing on the bond on the last
day of the month that includes the sixtieth day after the date on which the
surety files with the director a written request to be released and
discharged. The request does not relieve, release or discharge the surety
from liability already accrued or from liability that accrues before the last
day of the month that includes the end of the sixty day period. On receipt
of notice of the request, the director shall promptly notify the supplier who
furnished the bond and shall cancel the license of the supplier immediately,
unless the supplier, on or before the last day of the month that includes the
end of the sixty day period, files with the director a new bond with a surety
company satisfactory to the director in the amount and form provided in this
section. If the new bond is furnished by the supplier, the director shall
cancel and surrender the bond for which the new bond is substituted.

G. This section does not relieve a supplier of the supplier’s duty to
file the verified monthly report required by this article.

Sec. 2. Section 28-5925, Arizona Revised Statutes, is amended to read:

28-5925. Payment; distribution

A. The supplier, as shown in the records of the terminal operator, who
removes the taxable gallons shall precollect and remit on behalf of consumers
and users to the department the taxes that are imposed by sections 28-5606
and 28-8344 and that are measured by the invoiced gallons of motor fuel
removed by a licensed supplier from a terminal or refinery in this state
other than a bulk transfer.

B. The supplier and each reseller shall list the amount of tax as a
separate line item on all invoices or billings or as a separate billing.

C. The motor fuel tax that is accrued in any calendar month shall be
paid on or before the twenty-seventh day of the next succeeding calendar
month to the director.

D. A supplier shall remit any late taxes remitted to the supplier by
an eligible purchaser and shall notify the department in a timely manner of
any late remittances if that supplier has previously given notice to the
department of an uncollectible tax amount pursuant to section 28-5639,
subsection B.

E. On payment, the director shall promptly:

1. Distribute the amount of money collected as a tax on sales of motor
vehicle fuel used in propelling watercraft pursuant to section 28-5926
beginning with the month following the conclusion of the survey conducted
pursuant to section 28-5926.

28-5927.
2. Deposit, pursuant to sections 35-146 and 35-147, all remaining MOTOR FUEL TAX monies in the Arizona highway user revenue fund or the state aviation fund as determined from the reports filed pursuant to section 28-5618.

F. The director shall deduct all exemptions and refunds before depositing the monies.

Sec. 3. **Repeal**

Section 28-5926, Arizona Revised Statutes, is repealed.

Sec. 4. Title 28, chapter 16, article 5, Arizona Revised Statutes, is amended by adding a new section 28-5926, to read:

28-5926. **Transfer; state lake improvement fund; costs**

A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, ON A MONTHLY BASIS, THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ONE AND SIX-TENTHS OF ONE PER CENT OF MOTOR VEHICLE FUEL TAX MONIES COLLECTED PURSUANT TO SECTION 28-5606 IN THE STATE LAKE IMPROVEMENT FUND ESTABLISHED BY SECTION 5-382.

B. THE DIRECTOR SHALL RETAIN ONE PER CENT OF THE MONIES SPECIFIED IN SUBSECTION A OF THIS SECTION TO DEFRAY ADMINISTRATIVE EXPENSES.

Sec. 5. Section 28-7143, Arizona Revised Statutes, is amended to read:

28-7143. **Moving and related expenses; payment; substitute payments**

A. As a part of the cost of construction and on proper application to the department, the department shall pay to a displaced person, business or farm operation:

1. Actual reasonable expenses in moving the displaced person and the displaced person's family, business, farm operation or other personal property.

2. Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not more than the reasonable expenses that would have been required to relocate the property as determined by the department.

3. Actual reasonable expenses in searching for a replacement business or farm.

4. Actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization or small business at its new site pursuant to criteria established by the department, but not more than **ten TWENTY-FIVE** thousand dollars.

B. A displaced person who is eligible for payments under subsection A, who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection A may receive an expense and dislocation allowance determined according to a schedule established by the director.

C. A displaced person who is eligible for payments under subsection A, who is displaced from the person's place of business or farm operation and who is eligible under criteria established by the department may elect to
accept, instead of the payment authorized by subsection A, a fixed payment in an amount that is determined according to criteria established by the department and that is at least one thousand dollars but not more than twenty thousand dollars. A person whose sole business at the displacement dwelling is the rental of the property to others does not qualify for a payment under this subsection.

Sec. 6. Section 28-7510, Arizona Revised Statutes, is amended to read:

28-7510. Parity bonds

A. The board may issue parity bonds only when all of the payments due on the principal and interest on the outstanding bonds are current.

B. The board may not issue parity bonds unless the monies subject to pledge for payment of the bonds for the preceding twelve months exceed by three times the highest annual principal and interest payments on all of the outstanding bonds and the bonds to be issued for the highest one year period during the life of both the outstanding bonds and the bonds to be issued.

C. NOTWITHSTANDING SUBSECTION B OF THIS SECTION, THE BOARD MAY ISSUE PARITY BONDS TO REFUND OR REFINANCE ANY OUTSTANDING BONDS IF THE BOARD MEETS THE REQUIREMENTS OF SUBSECTION B OF THIS SECTION OR IF THE BOARD CERTIFIES THAT THE PRINCIPAL AND INTEREST PAYMENTS FOR EACH FISCAL YEAR ON ALL OUTSTANDING BONDS AND THE BONDS TO BE ISSUED IMMEDIATELY AFTER THE DATE OF ISSUANCE OF THE REFUNDING PARITY BONDS DO NOT EXCEED ONE HUNDRED FIVE PER CENT OF THE PRINCIPAL AND INTEREST PAYMENTS FOR EACH FISCAL YEAR ON ALL OUTSTANDING BONDS IMMEDIATELY BEFORE THE ISSUANCE OF THE REFUNDING PARITY BONDS.

D. The bonds sought to be issued shall mature and the principal and interest are payable at the same time as bonds then outstanding that have the same priority of lien.

E. All bonds issued under this article are deemed to contain the restrictions against issuance of parity bonds contained in this section, whether or not the resolution issuing the bonds or the bonds themselves contain covenants to this effect.

F. For THE purposes of this section, amounts subject to pledge shall be presumptively determined by a certificate of the chairman of the board.

G. The pledge of revenues prescribed in section 28-7504, subsection A, paragraphs 1 and 2 is not subject to sections 28-6952 through 28-6955, 28-6992, 28-6993 and 28-6995 through 28-7006. The payment of the necessary fees, charges and expenses incurred in the issuance of the bonds and the principal of and interest on the bonds are not subject to section 28-7007 but shall be made in the manner prescribed in the resolution issuing the bonds.