

REFERENCE TITLE: 2013-2014; government; budget reconciliation

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

SB 1489

Introduced by
Senators Biggs, McComish, Shooter (with permission of Committee on Rules)

AN ACT

AMENDING SECTION 3-1005, ARIZONA REVISED STATUTES; REPEALING TITLE 23, CHAPTER 3, ARTICLE 4, ARIZONA REVISED STATUTES; AMENDING SECTION 23-614, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 1, ARTICLE 2.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-151.24; AMENDING TITLE 41, CHAPTER 3, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-610; AMENDING SECTION 41-3953, ARIZONA REVISED STATUTES; REPEALING SECTION 41-3954, ARIZONA REVISED STATUTES; RELATING TO GENERAL GOVERNMENT BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 3-1005, Arizona Revised Statutes, is amended to
3 read:

4 3-1005. Arizona exposition and state fair fund

5 A. Monies received by the board, other than those referred to in
6 section 3-1003, subsection A, paragraph 9 and other than those received by
7 the board as ticket sales pursuant to a valid lease of the coliseum, shall be
8 deposited, pursuant to sections 35-146 and 35-147, in the Arizona exposition
9 and state fair fund and are subject to legislative appropriation. Ticket
10 sale monies received pursuant to a valid lease of the coliseum may be
11 deposited with a bank qualified to receive public deposits under title 35,
12 chapter 2, article 2.1, in which case the signature of the executive director
13 or ~~a bonded~~ AN employee designated by the executive director and the lessee
14 shall be required on any instrument withdrawing such a deposit. Vouchers for
15 authorized expenditures shall be signed by the executive director or by an
16 employee who ~~is bonded as prescribed by the terms of this article and~~ is
17 designated by the executive director. The receipt and expenditure of funds
18 shall be as prescribed by law and the rules of the director of the department
19 of administration. Balances remaining in the fund at the end of a fiscal
20 year shall not revert to the general fund.

21 B. On notice from the executive director, the state treasurer shall
22 invest and divest monies in the Arizona exposition and state fair fund in
23 obligations issued or guaranteed by the United States or any of the senior
24 debt of its agencies, sponsored agencies, corporations, sponsored
25 corporations or instrumentalities, and monies earned from investment shall be
26 credited to the Arizona exposition and state fair fund.

27 C. Disbursements from an account of ticket sales received pursuant to
28 a valid lease of the coliseum as described in subsection A of this section
29 shall be limited to payments of amounts due to the lessor or lessee pursuant
30 to the lease. No disbursements from this account shall be made for state
31 wages, salaries or expenses. Upon the completion or termination of any lease
32 pursuant to subsection A of this section, all monies accruing to the board
33 shall be deposited, pursuant to sections 35-146 and 35-147.

34 D. There is established an exposition and state fair board permanent
35 revolving fund for use in making change at fairs and for purchases and
36 activities requiring immediate cash outlay for events sponsored by the
37 Arizona exposition and state fair board that are proper as ultimate claims
38 for payment from the exposition and state fair fund. The amount of the fund
39 shall not exceed ~~twenty~~ SIXTY thousand dollars, except for a period beginning
40 October 1 and ending November 30 each year when the amount of the fund shall
41 not exceed ~~fifty~~ FOUR HUNDRED thousand dollars for use during the annual
42 state fair. Expenditures from this fund and reimbursement to the fund shall
43 be as prescribed by rules of the director of the department of
44 administration. All monies deposited in the revolving fund are appropriated
45 to the board for the purposes provided in this subsection and are exempt from

1 the provisions of section 35-190 relating to lapsing of appropriations. The
2 exposition and state fair board permanent revolving fund shall be established
3 as a separate account on the books of the exposition and state fair board and
4 a full accounting of its use shall be made to the director of the department
5 of administration annually or as required by the director of the department
6 of administration.

7 Sec. 2. Repeal; professional employer organization
8 registration; transfer of monies

9 A. Title 23, chapter 3, article 4, Arizona Revised Statutes, is
10 repealed.

11 B. Any monies remaining in the professional employer organization fund
12 established by section 23-576, Arizona Revised Statutes, as repealed by this
13 act, is transferred to the state general fund on the effective date of this
14 section.

15 Sec. 3. Section 23-614, Arizona Revised Statutes, is amended to read:

16 23-614. Employing unit; temporary services employer;
17 professional employer organization; definitions

18 A. "Employing unit" means an individual or type of organization,
19 including a partnership, association, trust, estate, joint-stock company,
20 insurance company or corporation, whether domestic or foreign, or the
21 receiver, trustee in bankruptcy, trustee or successor of any of the
22 foregoing, or the legal representative of a deceased person, which has, or
23 subsequent to January 1, 1936 had, one or more individuals performing
24 services for it within this state. Effective January 1, 1962, "employing
25 unit" shall include any federal instrumentality which is neither wholly nor
26 partially owned by the United States and which has one or more individuals
27 performing services for it within this state.

28 B. All individuals performing services within this state for an
29 employing unit which maintains two or more separate establishments within
30 this state shall be deemed to be performing services for a single employing
31 unit for all the purposes of this chapter.

32 C. Each individual employed to perform or to assist in performing the
33 work of any person in the service of an employing unit shall be deemed to be
34 engaged by the employing unit for all the purposes of this chapter, whether
35 the individual was hired or paid directly by the employing unit or by such
36 person, provided the employing unit had actual or constructive knowledge of
37 the work. Notwithstanding any other provision of this chapter except for
38 section 23-612.01, an individual who performs services in or for a particular
39 employing unit shall not be deemed to be in the employment of such employing
40 unit if such individual's wages for services in or for the particular
41 employing unit are paid by another employing unit, and if the contributions
42 required by this chapter on such wages are paid by such other employing unit.

43 D. Notwithstanding any other provision of this chapter, whether an
44 individual or entity is the employer of specific employees shall be
45 determined by section 23-613.01, except as provided in subsections E and G of

1 this section with respect to a professional employer organization or a
2 temporary services employer.

3 E. A professional employer organization or a temporary services
4 employer that contracts to supply a worker to perform services for a customer
5 or client is the employer of the worker who performs the services. A
6 customer or client who contracts with an individual or entity that is not a
7 professional employer organization or a temporary services employer to engage
8 a worker to perform services is the employer of the worker who performs the
9 services. Except as provided in subsection F of this section, an individual
10 or entity that is not a professional employer organization or a temporary
11 services employer, that contracts to supply a worker to perform services to a
12 customer or client and that pays remuneration to the worker acts as the agent
13 of the employer for purposes of payment of remuneration.

14 F. In circumstances that are in essence a loan of an employee to
15 another employer and the direction and control of the manner and means of
16 performing the services changes to the employer to whom the employee is
17 loaned, the loaning employer continues to be the employer of the employee if
18 the loaning employer continues to pay remuneration to the employee, whether
19 or not reimbursed by the other employer. If the employer to whom the
20 employee is loaned pays remuneration to the employee for the services
21 performed, that employer is considered the employer for the purposes of any
22 remuneration paid to the employee by the employer, regardless of whether the
23 loaning employer also pays remuneration to the employee.

24 G. A professional employer organization shall report and pay all
25 required contributions to the unemployment compensation fund using the state
26 employer account number and the contribution rate of the professional
27 employer organization.

28 H. On termination of a contract between a professional employer
29 organization and a client or the failure by a professional employer
30 organization to submit reports or make tax payments as required by this
31 chapter, the client shall be treated as a new employer without a previous
32 experience record if the client has been subject to a professional employer
33 agreement for at least two years or if the client is not otherwise eligible
34 for an experience rating.

35 I. For the purposes of this section:

36 1. "Professional employer organization": ~~has the same meaning~~
37 ~~prescribed in section 23-561.~~

38 (a) MEANS ANY PERSON WHO IS ENGAGED IN THE BUSINESS OF PROVIDING
39 PROFESSIONAL EMPLOYER SERVICES WHETHER OR NOT THE PERSON USES THE TERM
40 PROFESSIONAL EMPLOYER ORGANIZATION, STAFF LEASING COMPANY, REGISTERED STAFF
41 LEASING COMPANY OR EMPLOYEE LEASING COMPANY OR ANY OTHER NAME.

42 (b) DOES NOT INCLUDE:

43 (i) ANY PERSON WHOSE PRINCIPAL BUSINESS ACTIVITY IS NOT ENTERING INTO
44 PROFESSIONAL EMPLOYER AGREEMENTS AND WHO DOES NOT CLAIM TO BE A PROFESSIONAL
45 EMPLOYER ORGANIZATION.

1 (ii) A PERSON WHO SHARES EMPLOYEES WITH A COMMONLY OWNED COMPANY AS
2 DEFINED BY SECTIONS 414(b) AND 414(c) OF THE INTERNAL REVENUE CODE.

3 (iii) ARRANGEMENTS BY A PERSON WHO ASSUMES RESPONSIBILITY FOR THE
4 PRODUCT THAT IS PRODUCED OR SERVICE THAT IS PERFORMED BY THE PERSON AND WHO
5 RETAINS AND EXERCISES THE PRIMARY DISCRETION AND CONTROL OVER THE WORK
6 PERFORMED BY THE PERSON WHOSE SERVICES ARE SUPPLIED UNDER THE ARRANGEMENT.

7 (iv) A PERSON WHO HIRES TEMPORARY HELP FOR THE PURPOSE OF SUPPORTING
8 OR SUPPLEMENTING A CLIENT'S EMPLOYEES.

9 2. "Temporary services employer" means an employing unit that
10 contracts with clients or customers to supply workers to perform services for
11 the client or customer and that performs all of the following:

12 (a) Negotiates with clients or customers for such matters as the time
13 of work, the place of work, the type of work, the working conditions, the
14 quality of services and the price of services.

15 (b) Determines assignments or reassignments of workers, even though
16 workers retain the right to refuse specific assignments.

17 (c) Retains the authority to assign or reassign a worker to other
18 clients or customers if a worker is determined unacceptable by a specific
19 client or customer.

20 (d) Assigns or reassigns the worker to perform services for a client
21 or customer.

22 (e) Sets the rate of pay of the worker, whether or not through
23 negotiation.

24 (f) Pays the worker from its own account or accounts.

25 (g) Retains the right to hire and terminate workers.

26 Sec. 4. Title 41, chapter 1, article 2.1, Arizona Revised Statutes, is
27 amended by adding section 41-151.24, to read:

28 41-151.24. Museum gift shop revolving fund; exemption

29 A. THE MUSEUM GIFT SHOP REVOLVING FUND IS ESTABLISHED CONSISTING OF
30 GIFT SHOP PROCEEDS RECEIVED FROM THE SALE OF GOODS, GIFTS, NONFEDERAL GRANTS
31 AND DONATIONS. THE DIRECTOR SHALL ADMINISTER THE FUND. MONIES IN THE FUND
32 ARE CONTINUOUSLY APPROPRIATED. THE DIRECTOR SHALL USE THE MONIES IN THE FUND
33 TO PROVIDE TO THE PUBLIC GOODS FOR SALE THAT ARE REFLECTIVE OF THE THEMES OF
34 THE STATE CAPITOL MUSEUM AND THIS STATE.

35 B. MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190
36 RELATING TO LAPSING OF APPROPRIATIONS.

37 Sec. 5. Title 41, chapter 3, article 7, Arizona Revised Statutes, is
38 amended by adding section 41-610, to read:

39 41-610. Capital projects; federal monies; annual report

40 ON OR BEFORE NOVEMBER 1 OF EACH YEAR, THE DEPARTMENT SHALL SUBMIT A
41 REPORT TO THE DIRECTORS OF THE JOINT LEGISLATIVE BUDGET COMMITTEE AND THE
42 GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND BUDGETING ON CAPITAL PROJECTS FOR
43 WHICH THE DEPARTMENT HAS REQUESTED FEDERAL MONIES IN THE LAST TWELVE MONTHS.
44 FOR EACH PROJECT, THE REPORT SHALL INCLUDE:

45 1. THE STATUS OF THE REQUEST FOR AND RECEIPT OF THE FEDERAL MONIES.

1 2. THE ESTIMATED CONSTRUCTION START DATE.
2 3. THE ESTIMATED CONSTRUCTION END DATE.
3 4. THE FUND SOURCES AND ESTIMATED COST FOR CONSTRUCTION.
4 5. THE FUND SOURCES AND ESTIMATED ONGOING OPERATIONAL COST.
5 Sec. 6. Section 41-3953, Arizona Revised Statutes, is amended to read:
6 41-3953. Department powers and duties
7 A. The department is responsible for establishing policies, procedures
8 and programs that the department is authorized to conduct to address the
9 affordable housing issues confronting this state, including housing issues of
10 low income families, moderate income families, housing affordability, special
11 needs populations and decaying housing stock. Among other things, the
12 department shall provide to qualified housing participants and political
13 subdivisions of this state financial, advisory, consultative, planning,
14 training and educational assistance for the development of safe, decent and
15 affordable housing, including housing for low and moderate income households.
16 B. Under the direction of the director, the department shall:
17 1. Establish guidelines applicable to the programs and activities of
18 the department for the construction and financing of affordable housing and
19 housing for low and moderate income households in this state. These
20 guidelines shall meet or exceed all applicable state or local building and
21 health and safety code requirements and, if applicable, the national
22 manufactured home construction and safety standards act of 1974 and title VI
23 of the housing and community development act of 1974 (P.L. 93-383, as amended
24 by P.L. 95-128, 96-153 and 96-339). Guidelines established pursuant to this
25 paragraph do not apply to the department's activities prescribed in section
26 35-726, subsection E.
27 ~~2. Provide staff support to the Arizona housing commission and~~
28 ~~coordinate its activities.~~
29 ~~3.~~ 2. Accept and allocate any monies as from time to time may be
30 appropriated by the legislature for the purposes set forth in this article.
31 ~~4.~~ 3. Perform other duties necessary to administer this chapter.
32 ~~5.~~ 4. Perform the duties prescribed in sections 35-726, 35-728 and
33 35-913 ~~and chapter 4.3 of this title.~~
34 ~~6.~~ 5. Stimulate and encourage all local, state, regional and federal
35 governmental agencies and all private persons and enterprises that have
36 similar and related objectives and purposes, cooperate with the agencies,
37 persons and enterprises and correlate department plans, programs and
38 operations with those of the agencies, persons and enterprises.
39 ~~7.~~ 6. Conduct research on its own initiative or at the request of the
40 governor, the legislature or state or local agencies pertaining to any
41 department objectives.
42 ~~8.~~ 7. Provide information and advice on request of any local, state
43 or federal agencies, private persons and business enterprises on matters
44 within the scope of department activities.

- 1 ~~9.~~ 8. Consult with and make recommendations to the governor and the
2 legislature on all matters concerning department objectives.
- 3 ~~10.~~ 9. Make annual reports to the governor and the legislature on its
4 activities, including the geographic location of its activities, its finances
5 and the scope of its operations.
- 6 C. Under the direction of the director, the department may:
- 7 1. Assist in securing construction and mortgage financing from public
8 and private sector sources.
- 9 2. Assist mortgage financing programs established by industrial
10 development authorities and political subdivisions of this state.
- 11 3. Assist in the acquisition and use of federal housing assistance
12 programs pertinent to enhance the economic feasibility of a proposed
13 residential development.
- 14 4. Assist in the compliance of a proposed residential development with
15 applicable federal, state and local codes and ordinances.
- 16 5. Prepare and publish planning and development guidelines for the
17 establishment and delivery of housing assistance programs.
- 18 6. Contract with a federal agency to carry out financial work on the
19 federal agency's behalf and accept payment for the work.
- 20 7. Subcontract for the financial work prescribed in paragraph 6 of
21 this subsection and make payments for that subcontracted work based on the
22 expectation that the federal agency will pay for that work.
- 23 8. Accept payment from a federal agency for work prescribed in
24 paragraph 6 of this subsection and deposit those payments in the Arizona
25 department of housing program fund established by section 41-3957.
- 26 9. Contract for the services of outside advisers, consultants and
27 aides reasonably necessary or desirable to enable the department to
28 adequately perform its duties.
- 29 10. Contract **FOR** and incur obligations reasonably necessary or
30 desirable within the general scope of department activities and operations to
31 enable the department to adequately perform its duties.
- 32 11. Use any media of communication, publication and exhibition in the
33 dissemination of information, advertising and publicity in any field of its
34 purposes, objectives or duties.
- 35 12. Adopt rules deemed necessary or desirable to govern its procedures
36 and business.
- 37 13. Contract with other agencies in furtherance of any department
38 program.
- 39 14. Use monies, facilities or services to provide contributions under
40 federal or other programs that further the objectives and programs of the
41 department.
- 42 15. Accept gifts, grants, matching monies or direct payments from
43 public or private agencies or private persons and enterprises for the conduct
44 of programs that are consistent with the general purposes and objectives of

1 this article and deposit these monies in the Arizona department of housing
2 program fund established by section 41-3957.

3 16. Establish and collect fees and receive reimbursement of costs in
4 connection with any programs or duties performed by the department and
5 deposit the fees and cost reimbursements in the Arizona department of housing
6 program fund established by section 41-3957.

7 17. Provide staff support to the Arizona housing finance authority and
8 coordinate its activities.

9 D. For the purposes of this section, the department is exempt from
10 chapter 23 of this title.

11 E. The department is the designated state public housing agency as
12 defined in the United States housing act of 1937 (42 United States Code
13 sections 1401 through 1440) for the purpose of accepting federal housing
14 assistance monies and may participate in the housing assistance payments
15 program. Federal monies may be secured for all areas of this state subject
16 only to the limitations prescribed in subsection F of this section.

17 F. For areas of this state where an existing public housing authority
18 has not been established pursuant to section 36-1404, subsection A, the
19 department acting as a public housing agency may undertake all activities
20 under the section 8 tenant-based rental housing assistance payment program,
21 except that the department shall not undertake a section 8 tenant-based
22 rental housing assistance payment program within the boundaries of a city,
23 town or county unless authorized by resolution of the governing body of the
24 city, town or county. If the department accepts monies for a section 8
25 tenant-based rental housing assistance payment program for areas of this
26 state where an existing public housing authority has been established
27 pursuant to section 36-1404, subsection A, the department shall only accept
28 and secure federal monies to provide housing for the seriously mentally ill
29 or other disabled populations. The department may accept and secure federal
30 monies for undertaking all contract administrator activities authorized under
31 a section 8 project-based rental housing assistance payment program in all
32 areas of this state, and this participation does not require the
33 authorization of any local governing body.

34 G. The department shall not itself directly own, construct, operate or
35 rehabilitate any housing units, except as may be necessary to protect the
36 department's collateral or security interest arising out of any department
37 programs.

38 H. Notwithstanding any other provision of this section, the department
39 may obligate monies as loans or grants applicable to programs and activities
40 of the department for the purpose of providing housing opportunities for low
41 or moderate income households or for housing affordability or to prevent or
42 combat decaying housing stock. Unless otherwise required by federal or state
43 law, any loan repayments shall be deposited in the Arizona department of
44 housing program fund established by section 41-3957.

1 I. For any construction project financed by the department pursuant to
2 subsection C ~~OF THIS SECTION~~, except for contract administration activities
3 in connection with the project-based section 8 program, the department shall
4 notify a city, town, county or tribal government that a project is planned
5 for its jurisdiction and, before proceeding, shall seek comment from the
6 governing body of the city, town, county or tribal government or an official
7 authorized by the governing body of the city, town, county or tribal
8 government. The department shall not interfere with or attempt to override
9 the local jurisdiction's planning, zoning or land use regulations.

10 Sec. 7. ~~Repeal; housing commission~~

11 Section ~~41-3954~~, Arizona Revised Statutes, is repealed.

12 Sec. 8. ~~Arizona centennial special plate fund; allocation;~~
13 ~~secretary of state; fund use; reversion;~~
14 ~~retroactivity~~

15 A. Notwithstanding section 28-2448, Arizona Revised Statutes, any
16 monies transferred to the Arizona historical society in fiscal year 2012-2013
17 pursuant to section 28-2448, subsection E, Arizona Revised Statutes, shall
18 revert to the Arizona centennial special plate fund established by section
19 28-2448, Arizona Revised Statutes, on the effective date of this section.

20 B. Notwithstanding section 28-2448, Arizona Revised Statutes, before
21 allocating any monies pursuant to section 28-2448, subsection E, Arizona
22 Revised Statutes, in fiscal year 2013-2014, the department of transportation
23 shall allocate the first \$135,000 from the Arizona centennial special plate
24 fund established by section 28-2448, Arizona Revised Statutes, including fund
25 balances and new revenues, to the Arizona historical advisory commission for
26 the purpose of completing and transporting the statue authorized by house
27 joint resolution 2001, forty-eighth legislature, second regular session.

28 C. Notwithstanding any other law, the secretary of state may authorize
29 the Arizona historical advisory commission to use up to \$65,000 of in-kind
30 gifts, donations, devises or fee-based monies generated by either the Arizona
31 state library, archives and public records or the secretary of state's office
32 from fiscal year 2012-2013 or 2013-2014 for the purposes of completing and
33 transporting the statue authorized by house joint resolution 2001,
34 forty-eighth legislature, second regular session.

35 D. The monies allocated pursuant to subsection B of this section and
36 authorized pursuant to subsection C of this section shall not be used for
37 more than fifty per cent of the total cost of completing and transporting the
38 statue authorized by house joint resolution 2001, forty-eighth legislature,
39 second regular session.

40 E. Any monies allocated pursuant to subsection B of this section that
41 are unencumbered and unexpended as of June 30, 2014 shall revert to the
42 Arizona centennial special plate fund established by section 28-2448, Arizona
43 Revised Statutes.

44 F. This section is effective retroactively to July 1, 2013.

