REFERENCE TITLE: fire districts; wildland fires; budgets

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

SB 1244

Introduced by
Senators Allen S, Begay; Representative Borrelli; Senators Burges, Contreras, Driggs, Meza; Representative Thorpe

AN ACT

AMENDING SECTIONS 35-144, 37-623.02 AND 48-807, ARIZONA REVISED STATUTES; REPEALING SECTION 49-132, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 208, SECTION 31; AMENDING SECTION 49-132, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1991, CHAPTER 315, SECTION 4; RELATING TO FIRE DISTRICTS.

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

Section 1. Section 35-144, Arizona Revised Statutes, is amended to read:

35-144. Budget stabilization fund; definitions

A. The budget stabilization fund is established consisting of monies transferred from the state general fund pursuant to subsection B of this section. The state treasurer shall administer the fund and invest and divest monies in the fund as provided by sections 35-313 and 35-314.02, and monies earned from investment shall be credited to the fund. Except as provided by this section:

1. Monies in the fund are exempt from the provisions of section 35-190 relating to the reversion of monies to the state general fund.

2. The monies in the fund are separate monies to be used only for the purposes of the fund.

3. An amount sufficient to pay claims certified by the state forester pursuant to section 37-623.02 is continuously appropriated from the fund to the state treasurer for payment of the certified claims.

B. In a calendar year in which the annual growth rate exceeds the trend growth rate, the excess growth when multiplied by total general fund revenue of the fiscal year ending in the calendar year determines the amount to be appropriated by the legislature to the budget stabilization fund in the fiscal year in which the calendar year ends.

C. In a calendar year in which the annual growth rate is both less than two percent and less than the trend growth rate, the difference between the annual growth rate and the trend growth rate when multiplied by the total general fund revenue of the fiscal year ending in the calendar year determines the amount to be transferred by the legislature from the budget stabilization fund to the state general fund at the end of the fiscal year in which the calendar year ends. The transfer calculated pursuant to this subsection shall not exceed the available balance in the fund, nor shall the legislature transfer an amount which exceeds the amount sufficient to balance the general fund budget.

D. The legislature shall pass a bill which contains the emergency clause if the legislature either:

1. Reduces the amount for appropriation to the budget stabilization fund under subsection B of this section.

2. Increases the amount for transfer to the state general fund under subsection C of this section.

E. The annual budget recommendations of the governor and the joint legislative budget committee shall include estimates of appropriations or transfers required under subsection B or C of this section.

F. A final determination of the amount to be appropriated to or transferred from the budget stabilization fund shall be made using personal income and price deflator estimates as reported in the second calendar quarter for the preceding calendar year. The economic estimates commission
shall determine the annual growth rate, the trend growth rate and the required appropriation to or transfer from the budget stabilization fund at its first meeting following the second calendar quarter report of the United States department of commerce, but not later than June 1. The commission shall certify and report its findings to the governor, the state treasurer, the president of the senate, the speaker of the house of representatives and the joint legislative budget committee.

G. The appropriation calculated pursuant to subsection B of this section may be included in the general appropriation bill for that fiscal year. Any additional appropriation calculated pursuant to subsection F of this section shall be made by separate act.

H. At the end of a fiscal year, the budget stabilization fund balance shall not exceed 5.634 per cent for fiscal year 1997-1998, 6.333 per cent for fiscal year 1998-1999 and seven per cent for each fiscal year of general fund revenue for each fiscal year. Any surplus monies above the allowable percentages shall be transferred by the state treasurer to the state general fund.

I. The state treasurer may temporarily divest monies in the budget stabilization fund to avoid a negative cash balance in operating monies. The amount divested shall not exceed the amount required to meet immediate cash needs. The state treasurer may divest monies in the budget stabilization fund only when the general fund has a negative cash balance.

J. In FOR THE PURPOSES OF this section:

1. "Adjusted personal income" means personal income minus transfer payments, as reported by the United States department of commerce, bureau of economic analysis, or its successor agency.

2. "Annual growth rate" means the percentage change in real adjusted personal income in the calendar year ending during a fiscal year as compared to real adjusted personal income for the preceding calendar year. The annual growth rate shall be rounded to the nearest one-hundredth of one per cent.

3. "GDP price deflator" means the gross domestic product price deflator reported by the United States department of commerce, bureau of economic analysis, or its successor agency.

4. "Personal income" means the total personal income of all persons in this state reported by the United States department of commerce, bureau of economic analysis, or its successor agency.

5. "Real adjusted personal income" means an amount which is determined by dividing adjusted personal income by the GDP price deflator and multiplying the result by one hundred.

6. "Transfer payments" means that portion of personal income which represents a government expenditure for which no service is rendered or product is delivered, as determined by the United States department of commerce, bureau of economic analysis, or its successor agency.
7. "Trend growth rate" means the average annual growth rate for the most recent seven calendar years, rounded to the nearest one-hundredth of one percent.

Sec. 2. Section 37-623.02, Arizona Revised Statutes, is amended to read:

37-623.02. Emergencies; prohibiting fireworks; liabilities and expenses; fire suppression revolving fund

A. On request of the state forester, the governor may authorize the state forester to incur liabilities for suppressing wildland fires and responding to other unplanned all-risk activities from unrestricted monies in the state general fund whether or not the legislature is in session.

B. The state forester has the authority to prohibit the use of fireworks during times of high fire potential in the unincorporated areas of the state.

C. The state forester or the state forester's designee shall review all liabilities incurred and expenditures made under this section and shall report the expenditures to the department of administration for audit according to department of administration rules. The state forester shall transmit a copy of the report to the state emergency council.

D. Liabilities incurred under this section are subject to the following limitations:

1. Wildland fire suppression or other unplanned all-risk emergency liabilities shall not exceed three million dollars of state general fund monies pursuant to subsection A of this section in a fiscal year for costs associated with suppressing wildland fires, supporting other unplanned all-risk activities such as fire, flood, earthquake, wind and hazardous material responses and preparing for periods of extreme fire danger and pre-position equipment and other fire suppression resources to provide for enhanced initial attack on wildland fires. The state forester shall not incur nonreimbursable liabilities for support of nonfire all-risk activities. The governor shall determine when periods of extreme fire danger exist and must approve any expenditure for pre-positioning activities.

2. If the funding authorization in paragraph 1 of this subsection is exhausted, or if the nonreimbursable liabilities incurred exceed the cash balance of the fire suppression revolving fund, the state forester shall not incur additional liabilities without the consent of a majority of the state emergency council as authorized by section 35-192.

E. The state forester shall process and pay claims for reimbursement for wildland fire suppression services, INCLUDING CLAIMS FOR PERSONNEL HOURS, USED SUPPLIES AND REASONABLE AND NEGOTIATED COSTS OF DAMAGE TO EQUIPMENT THAT EXCEEDS NORMAL WEAR AND TEAR, as follows:

1. Except as provided by paragraph 2 of this subsection, within thirty days after receiving a complete and correct claim for wildland fire suppression services, the state forester shall pay the claim from available
monies that have not been committed to the payment of other wildfire expenses.

2. Within thirty days after receiving a complete and correct claim for wildland fire suppression services on federal lands, the state forester shall complete the processing of the claim and forward the claim to the appropriate federal agency.

3. For any valid claim other than for federal reimbursement, if there is insufficient funding in the fire suppression revolving fund, the holder of the unpaid claim shall be issued a certificate pursuant to section 35-189.

4. If a federal agency does not pay a claim for reimbursement within thirty days after the state forester forwards the claim, the state forester shall pay the claim from available monies in the emergency response fund established by section 49-132. If there are insufficient monies in the emergency response fund to pay the claim, the state forester shall certify the claim to the state treasurer who shall pay the claim from monies appropriated from the budget stabilization fund pursuant to section 35-144, subsection A, paragraph 3. A holder of an unpaid federal claim that receives monies pursuant to this paragraph shall reimburse the state forester or the state treasurer within thirty days after payment of the claim by a federal agency.

F. Monies received for suppressing wildland fires, pre-positioning equipment and firefighting resources and other unplanned all-risk activities may be used for the purposes of section 37-623 and this section.

G. The state forester shall adopt rules for administering the wildland fire suppression monies authorized under this section, subject to approval of the governor.

H. The state forester may require reimbursement from cities and other political subdivisions of this state and state and federal agencies for costs incurred in the suppression of wildland fires, pre-suppression or unplanned all-risk activities. Reimbursement shall be based on the terms and conditions in cooperative agreements, land ownership or negligence. The state forester may require reimbursement from individuals or businesses only for costs incurred in the suppression of wildland fires or unplanned all-risk activities caused by their negligence or criminal acts.

I. The fire suppression revolving fund is established consisting of civil penalties collected pursuant to section 36-1610 and monies received by the state forester for wildland fire suppression and pre-positioning equipment and resources and for payment for activities related to combating wildland fires and supporting other unplanned all-risk activities such as fire, flood, earthquake, wind and hazardous material responses. The state forester shall not incur nonreimbursable liabilities for support of nonfire all-risk activities. The state forester shall administer the fund, and all monies received for these activities shall be deposited, pursuant to sections 35-146 and 35-147, in the fund. Monies in the fire suppression revolving fund are continuously appropriated to the state forester, except that if the
unobligated balance of the fund exceeds two million dollars at the end of any
calendar year, the excess shall be transferred to the state general fund.

Monies in the fire suppression revolving fund are otherwise exempt from the
provisions of section 35-190 relating to lapsing of appropriations.

Sec. 3. Section 48-807, Arizona Revised Statutes, is amended to read:

48-807. County fire district assistance tax; annual budget;
override

A. The board of supervisors of a county shall levy, at the time of
levying other property taxes, a county fire district assistance
tax on the taxable property in the county of not more than ten cents per one
hundred dollars of assessed valuation. The tax levy provided for in this
subsection shall be a levy of secondary property taxes and shall not be
subject to title 42, chapter 17, article 2. The county treasurer shall pay
to each fire district, including a fire district formed pursuant to section
48-851, in the county from the proceeds of the tax an amount equal to twenty
percent of the property tax levy adopted by the district for the fiscal year
in which the tax will be levied, except that:

1. The amount of assistance from the county to a fire district shall
be reduced as follows:

   (a) Through the fiscal year that ends June 30, 2012, by the dollar
amount that the fire district receives from the fire district assistance tax
that exceeds three hundred thousand dollars from and after June 30 of each
fiscal year.

   (b) Beginning with the fiscal year that starts July 1, 2012, by the
dollar amount that the fire district receives from the fire district
assistance tax that exceeds four hundred thousand dollars from and after
June 30 of each fiscal year, without regard to whether the district is
located in more than one county.

   (c) Except as provided in paragraph 2 of this subsection, if the total
amount to be paid to all districts in the county under this paragraph exceeds
the amount to be raised by the levy of ten cents per one hundred dollars
assessed valuation, then the county treasurer shall pay an amount less than
twenty percent of the property tax levy of each district. The amount to be
paid by the county treasurer to each district shall be determined by
multiplying the proceeds of the county fire district assistance tax against
the proportion that twenty percent of the property tax levy of each district
bears to the total of twenty percent of the property tax levies of all fire
districts in the county.

2. For fiscal years beginning from and after July 1, 1992, the amount
of assistance from the county to a fire district shall not be less than the
assistance provided from and after June 30, 1991 through June 30, 1992, if,
for the fiscal year in which the tax will be levied, the district levies a
tax, in addition to any tax levied under section 48-806, of three dollars per
one hundred dollars of assessed valuation and the assessed valuation is at
least ninety percent of the assessed valuation for the 1991 tax year. This
paragraph does not apply to fire districts subject to paragraph 1, subdivision (a) or (b) of this subsection.

B. For the purpose of subsection A of this section, the property tax levy of the fire district shall include in lieu contributions pursuant to chapter 1, article 8 of this title but shall not include property tax levies to be applied to the payment of principal and interest on bonds issued pursuant to section 48-806.

C. Beginning with the fiscal year that starts July 1, 2012 AND ENDING WITH THE FISCAL YEAR THAT STARTS JULY 1, 2015, a consolidated district shall not receive more than four hundred thousand dollars in fire district assistance tax monies, without regard to whether the consolidated district is located in more than one county. BEGINNING WITH THE FISCAL YEAR THAT STARTS JULY 1, 2016, A CONSOLIDATED DISTRICT MAY RECEIVE FIRE DISTRICT ASSISTANCE TAX MONIES AS OTHERWISE PRESCRIBED BY THIS SECTION.

D. Beginning with the fiscal year that starts July 1, 2012 AND ENDING WITH THE FISCAL YEAR THAT STARTS JULY 1, 2015, if two or more fire districts merge to form a consolidated district and the total of the amounts received by each fire district from the fire district assistance tax is less than four hundred thousand dollars, the consolidated district may continue to receive monies until its receipts total four hundred thousand dollars, as prescribed in subsection A of this section, without regard to whether the consolidated district is located in more than one county. BEGINNING WITH THE FISCAL YEAR THAT STARTS JULY 1, 2016, A CONSOLIDATED DISTRICT MAY RECEIVE FIRE DISTRICT ASSISTANCE TAX MONIES AS OTHERWISE PRESCRIBED BY THIS SECTION WITHOUT REGARD TO WHETHER THE CONSOLIDATED DISTRICT IS LOCATED IN MORE THAN ONE COUNTY.

E. The board, based on the budget submitted by the district, shall levy, in addition to any tax levied as provided in section 48-806, a tax not to exceed three dollars twenty-five cents per one hundred dollars of assessed valuation, or the amount of the levy in the preceding tax year multiplied by 1.08, whichever levy is less, and minus any amounts required to reduce the levy pursuant to subsection H of this section, against all property situated within the district boundaries and appearing on the last assessment roll. The levy shall be made and the taxes collected in the manner, at the time and by the officers provided by law for the collection of general county taxes.

F. The qualified electors of the district, voting in an election as prescribed by subsection G of this section, may authorize the board to levy a tax exceeding the limits prescribed by subsection E of this section under one, but not both, of the following options:

1. The electors may authorize a permanent override allowing annual levies without reference to the levy in the preceding tax year, but remaining subject to the tax rate limit of three dollars twenty-five cents per one hundred dollars of assessed valuation. An election for the purposes of this paragraph must be held at a regularly scheduled general election held on the first Tuesday following the first Monday in November as prescribed by section 16-204, subsection F.
2. If the net assessed valuation of all property in the district declines by a combined total of twenty percent or more over two consecutive valuation years, the electors voting at the next regularly scheduled general election held on the first Tuesday following the first Monday in November as prescribed by section 16-204, subsection F may authorize an override for five consecutive tax years allowing annual levies that are exempt from the tax rate limit of three dollars twenty-five cents, but subject to an annual levy limit of the amount of the levy in the preceding tax year multiplied by 1.05. After the fifth tax year, the district is again subject to the limits prescribed by subsection E of this section, computed by multiplying the levy beginning in the year preceding the override by 1.08 for each year through the current tax year, AND SHALL NOT SEEK AN ADDITIONAL OVERRIDE DURING THE FIVE TAX YEARS IMMEDIATELY FOLLOWING THE EXPIRATION OF THE OVERRIDE.

G. The call for an override election held for the purposes of subsection F of this section must state:
   1. The purpose for requesting additional secondary property tax revenue for the district.
   2. If the voters approve the levy:
      (a) The maximum dollar amount of secondary property tax that may be collected in the first year compared to the existing maximum secondary property tax levy prescribed in subsection E of this section.
      (b) The estimated secondary property tax rate to fund the proposed levy under subdivision (a) of this paragraph in the first tax year compared to the secondary property tax rate levied in the current year.

H. If the district annexes additional territory, the limit under subsection E of this section shall be adjusted by applying the district's tax rate to the assessed valuation of the annexed property in the preceding tax year. If districts are merged or consolidated under this chapter, the limitation under this subsection in the first year after the districts are merged or consolidated is the total of the levies of the merged or consolidated districts in the preceding tax year multiplied by 1.08 or the amount of the levies allowed by the maximum rate prescribed by subsection E of this section, whichever is less.

I. The district shall maintain any property tax revenues collected in excess of the sum of the amounts of taxes collectible pursuant to section 42-17054 and the allowable levy determined under subsection E of this section in a separate fund and used to reduce the property tax levy in the following tax year.

J. The levy limit under this section is considered to be increased each year to the maximum limit permissible under subsection E of this section regardless of whether the district actually levies taxes up to the maximum permissible amount in that year.

K. The county treasurer shall keep the money received from taxes levied pursuant to subsection E of this section in a separate fund known as
the "fire district general fund" of the district for which collected. Any
surplus remaining in the fire district general fund at the end of the fiscal
year shall be credited to the fire district general fund of the district for
which it was collected for the succeeding fiscal year and after subtraction
of accounts payable and encumbrances, shall be used to reduce the property
tax levy in the following tax year.

L. A fire district may maintain separate accounts with a financial
institute that is authorized to do business in this state for the purpose
of operating a payroll account or for holding special revenues or ambulance
revenues, or both, as necessary to fulfill the district's fiduciary
responsibilities.

M. A fire district, through the county treasurer, shall establish the
relevant governmental funds necessary for the proper management and fiscal
accountability of district monies from property taxes, grants, contributions
and donations, as defined by the government accounting standards board.
Unless the monies received are legally restricted by contract, agreement or
law, those monies may be transferred between fund accounts according to the
original or amended budget of the fire district.

N. A fire district shall reconcile all balance sheet accounts for
accounts for each calendar month of the fiscal year within thirty days after
the end of that calendar month. The fire district board shall review the
reconciled balance sheet accounts monthly, except that for a fire district
that is governed by a three-member board, the board may review the reconciled
balance sheet accounts every two months.

O. A fire district shall produce monthly financial reports to include
a register of checks, warrants and deposits, a statement of financial
activities and a statement of net assets for each calendar month. A fire
district shall produce a cash flow projection report for each fiscal year.
The cash flow projection report shall be updated monthly with the actual
revenues and expenditures from the preceding month. Each month, the fire
district board shall review the financial reports, the updated cash flow
projections report and all month-end fund statements and reports of the
preceding month to include those reports provided by the county treasurer and
each of the financial institutions in which the district maintains an
account, except that for a fire district that is governed by a three-member
board, the board may review the reports and statements prescribed by this
subsection every two months. Any financial report or cash flow projection
report that would indicate that the district is likely to violate section
48-805.02, subsection D, paragraph 1 or that would indicate an adverse impact
on the ongoing operations or liquidity of the district shall be reported by
the fire district board chairman in writing and delivered by certified mail
to the county treasurer and the county board of supervisors within ten days
after the discovery.

P. Notwithstanding section 11-605, a fire district may register
warrants only if separate accounts are maintained by the county treasurer for
each governmental fund of a fire district. Warrants may only be registered
on the maintenance and operation account, the unrestricted capital outlay
account and the special revenue account, and only if the total cash balance
of all three accounts is insufficient to pay the warrants and after any
revolving line of credit has been expended as prescribed in section 11-635.

Q. When a fire district has adopted a budget and the board of
supervisors has levied a fire district tax as provided in subsection E of
this section and the district has insufficient money in its general fund with
the county treasurer to operate the district, the chairman of the board, on
or after August 1 of each year, may draw warrants for the purposes prescribed
in section 48-805 on the county treasurer, payable on November 1 of that year
or on April 1 of the succeeding year. The aggregate amounts of the warrants
may not exceed ninety percent of the taxes levied by the county for the
district's current fiscal year. If the treasurer cannot pay a warrant for
lack of funds in the fire district general fund, the warrant shall be
endorsed, be registered, bear interest and be redeemed as provided by law for
county warrants, except that the warrants are payable only from the fire
district general fund.

Sec. 4. Repeal

Section 49-132, Arizona Revised Statutes, as amended by Laws 2015,
chapter 208, section 31, is repealed.

Sec. 5. Section 26-352, Arizona Revised Statutes, as amended by Laws
1991, chapter 315, section 4, and as renumbered by Laws 2015, chapter 208,
section 12, as section 49-132, is amended to read:

49-132. Emergency response fund

The emergency response fund is established consisting of monies
appropriated by the legislature for purposes of section 26-305.02 AND SECTION
37-623.02 AND this article and federal, private and other monies available
for that purpose. The chairman of the commission DEPARTMENT shall manage the
fund and expend monies in the fund FOR THE PURPOSES OF SECTION 37-623.02 OR
in performing the functions required or authorized by this article. All
interest earned from investing monies in the fund shall be credited to the
fund. Monies in the fund are subject to legislative appropriation and are
exempt from section 35-190 relating to lapsing of appropriations.