

REFERENCE TITLE: state law; local violations; penalties

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

SB 1487

Introduced by
Senators Biggs, Kavanagh, Smith, Yee; Representatives Farnsworth E,
Petersen; Senators Allen S, Begay, Farnsworth D, Shooter

AN ACT

AMENDING TITLE 41, CHAPTER 1, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-194.01; AMENDING SECTIONS 42-5029 AND 43-206, ARIZONA REVISED STATUTES; RELATING TO STATE SHARED REVENUES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 41, chapter 1, article 5, Arizona Revised Statutes,
3 is amended by adding section 41-194.01, to read:

4 41-194.01. Violations of state law by counties, cities and
5 towns; attorney general investigation; report;
6 withholding of state shared revenues

7 A. AT THE REQUEST OF ONE OR MORE MEMBERS OF THE LEGISLATURE, THE
8 ATTORNEY GENERAL SHALL INVESTIGATE ANY ORDINANCE, REGULATION, ORDER OR OTHER
9 OFFICIAL ACTION ADOPTED OR TAKEN BY THE GOVERNING BODY OF A COUNTY, CITY OR
10 TOWN THAT THE MEMBER ALLEGES VIOLATES STATE LAW OR THE CONSTITUTION OF
11 ARIZONA.

12 B. THE ATTORNEY GENERAL SHALL MAKE A WRITTEN REPORT OF FINDINGS AND
13 CONCLUSIONS AS A RESULT OF THE INVESTIGATION WITHIN THIRTY DAYS AFTER RECEIPT
14 OF THE REQUEST AND SHALL PROVIDE A COPY OF THE REPORT TO THE GOVERNOR, THE
15 PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE
16 MEMBER OR MEMBERS OF THE LEGISLATURE MAKING THE ORIGINAL REQUEST AND THE
17 SECRETARY OF STATE. IF THE ATTORNEY GENERAL CONCLUDES THAT THE ORDINANCE,
18 REGULATION, ORDER OR OTHER ACTION UNDER INVESTIGATION:

19 1. VIOLATES ANY PROVISION OF STATE LAW OR THE CONSTITUTION OF ARIZONA,
20 THE ATTORNEY GENERAL SHALL PROVIDE NOTICE TO THE COUNTY, CITY OR TOWN, BY
21 CERTIFIED MAIL, OF THE VIOLATION AND SHALL INDICATE THAT THE COUNTY, CITY OR
22 TOWN HAS THIRTY DAYS TO RESOLVE THE VIOLATION. IF THE ATTORNEY GENERAL
23 DETERMINES THAT THE COUNTY, CITY OR TOWN HAS FAILED TO RESOLVE THE VIOLATION
24 WITHIN THIRTY DAYS, THE ATTORNEY GENERAL SHALL:

25 (a) NOTIFY THE STATE TREASURER WHO SHALL WITHHOLD AND REDISTRIBUTE
26 STATE SHARED MONIES FROM THE COUNTY, CITY OR TOWN AS PROVIDED BY SECTION
27 42-5029, SUBSECTION L AND FROM THE CITY OR TOWN AS PROVIDED BY SECTION
28 43-206, SUBSECTION F.

29 (b) CONTINUE TO MONITOR THE RESPONSE OF THE GOVERNING BODY, AND WHEN
30 THE OFFENDING ORDINANCE, REGULATION, ORDER OR ACTION IS REPEALED OR THE
31 VIOLATION IS OTHERWISE RESOLVED, THE ATTORNEY GENERAL SHALL NOTIFY:

32 (i) THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE
33 HOUSE OF REPRESENTATIVES AND THE MEMBER OR MEMBERS OF THE LEGISLATURE MAKING
34 THE ORIGINAL REQUEST THAT THE VIOLATION HAS BEEN RESOLVED.

35 (ii) THE STATE TREASURER TO RESTORE THE DISTRIBUTION OF STATE SHARED
36 REVENUES TO THE COUNTY, CITY OR TOWN.

37 2. MAY VIOLATE A PROVISION OF STATE LAW OR THE CONSTITUTION OF
38 ARIZONA, THE ATTORNEY GENERAL SHALL FILE A SPECIAL ACTION IN SUPREME COURT TO
39 RESOLVE THE ISSUE, AND THE SUPREME COURT SHALL GIVE THE ACTION PRECEDENCE
40 OVER ALL OTHER CASES. THE COURT SHALL REQUIRE THE COUNTY, CITY OR TOWN TO
41 POST A BOND EQUAL TO THE AMOUNT OF STATE SHARED REVENUE PAID TO THE COUNTY,
42 CITY OR TOWN PURSUANT TO SECTION 42-5029 AND 43-206 IN THE PRECEDING SIX
43 MONTHS.

44 3. DOES NOT VIOLATE ANY PROVISION OF STATE LAW OR THE CONSTITUTION OF
45 ARIZONA, THE ATTORNEY GENERAL SHALL TAKE NO FURTHER ACTION PURSUANT TO THIS
46 SECTION.

1 (i) The proportion that the assessed valuation used to determine
2 secondary property taxes of each county, after deducting that part of the
3 assessed valuation that is exempt from taxation at the beginning of the month
4 for which the amount is to be paid, bears to the total assessed valuations
5 used to determine secondary property taxes of all the counties after
6 deducting that portion of the assessed valuations that is exempt from
7 taxation at the beginning of the month for which the amount is to be paid.
8 Property of a city or town that is not within or contiguous to the municipal
9 corporate boundaries and from which water is or may be withdrawn or diverted
10 and transported for use on other property is considered to be taxable
11 property in the county for purposes of determining assessed valuation in the
12 county under this item.

13 (ii) The proportion that the distribution base monies collected during
14 the calendar month in each county under this article, section 42-5164,
15 subsection B, section 42-5205, subsection B and section 42-5353 bear to the
16 total distribution base monies collected under this article, section 42-5164,
17 subsection B, section 42-5205, subsection B and section 42-5353 throughout
18 the state for the calendar month.

19 (b) If the proportion computed under subdivision (a) of this paragraph
20 for any county is greater than the proportion computed under paragraph 2 of
21 this subsection, the department shall compute the difference between the
22 amount distributed to that county under paragraph 2 of this subsection and
23 the amount that would have been distributed under paragraph 2 of this
24 subsection using the proportion computed under subdivision (a) of this
25 paragraph and shall pay that difference to the county from the amount
26 available for distribution under this paragraph. Any monies remaining after
27 all payments under this subdivision shall be distributed among the counties
28 according to the proportions computed under paragraph 2 of this subsection.

29 4. After any distributions required by sections 42-5030, 42-5030.01,
30 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making any transfer to
31 the water quality assurance revolving fund as required by section 49-282,
32 subsection B, credit the remainder of the monies designated as distribution
33 base to the state general fund. From this amount the legislature shall
34 annually appropriate to:

35 (a) The department of revenue sufficient monies to administer and
36 enforce this article and articles 5 and 8 of this chapter.

37 (b) The department of economic security monies to be used for the
38 purposes stated in title 46, chapter 1.

39 (c) The firearms safety and ranges fund established by section 17-273,
40 fifty thousand dollars derived from the taxes collected from the retail
41 classification pursuant to section 42-5061 for the current fiscal year.

42 E. If approved by the qualified electors voting at a statewide general
43 election, all monies collected pursuant to section 42-5010, subsection G and
44 section 42-5155, subsection D shall be distributed each fiscal year pursuant
45 to this subsection. The monies distributed pursuant to this subsection are
46 in addition to any other appropriation, transfer or other allocation of

1 public or private monies from any other source and shall not supplant,
2 replace or cause a reduction in other school district, charter school,
3 university or community college funding sources. The monies shall be
4 distributed as follows:

5 1. If there are outstanding state school facilities revenue bonds
6 pursuant to title 15, chapter 16, article 7, each month one-twelfth of the
7 amount that is necessary to pay the fiscal year's debt service on outstanding
8 state school improvement revenue bonds for the current fiscal year shall be
9 transferred each month to the school improvement revenue bond debt service
10 fund established by section 15-2084. The total amount of bonds for which
11 these monies may be allocated for the payment of debt service shall not
12 exceed a principal amount of eight hundred million dollars exclusive of
13 refunding bonds and other refinancing obligations.

14 2. After any transfer of monies pursuant to paragraph 1 of this
15 subsection, twelve per cent of the remaining monies collected during the
16 preceding month shall be transferred to the technology and research
17 initiative fund established by section 15-1648 to be distributed among the
18 universities for the purpose of investment in technology and research-based
19 initiatives.

20 3. After the transfer of monies pursuant to paragraph 1 of this
21 subsection, three per cent of the remaining monies collected during the
22 preceding month shall be transferred to the workforce development account
23 established in each community college district pursuant to section 15-1472
24 for the purpose of investment in workforce development programs.

25 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
26 subsection, one-twelfth of the amount a community college that is owned,
27 operated or chartered by a qualifying Indian tribe on its own Indian
28 reservation would receive pursuant to section 15-1472, subsection D,
29 paragraph 2 if it were a community college district shall be distributed each
30 month to the treasurer or other designated depository of a qualifying Indian
31 tribe. Monies distributed pursuant to this paragraph are for the exclusive
32 purpose of providing support to one or more community colleges owned,
33 operated or chartered by a qualifying Indian tribe and shall be used in a
34 manner consistent with section 15-1472, subsection B. For the purposes of
35 this paragraph, "qualifying Indian tribe" has the same meaning as defined in
36 section 42-5031.01, subsection D.

37 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
38 subsection, one-twelfth of the following amounts shall be transferred each
39 month to the department of education for the increased cost of basic state
40 aid under section 15-971 due to added school days and associated teacher
41 salary increases enacted in 2000:

- 42 (a) In fiscal year 2001-2002, \$15,305,900.
- 43 (b) In fiscal year 2002-2003, \$31,530,100.
- 44 (c) In fiscal year 2003-2004, \$48,727,700.
- 45 (d) In fiscal year 2004-2005, \$66,957,200.

1 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
2 \$86,280,500.

3 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
4 subsection, seven million eight hundred thousand dollars is appropriated each
5 fiscal year, to be paid in monthly installments, to the department of
6 education to be used for school safety as provided in section 15-154 and two
7 hundred thousand dollars is appropriated each fiscal year, to be paid in
8 monthly installments to the department of education to be used for the
9 character education matching grant program as provided in section 15-154.01.

10 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
11 subsection, no more than seven million dollars may be appropriated by the
12 legislature each fiscal year to the department of education to be used for
13 accountability purposes as described in section 15-241 and title 15, chapter
14 9, article 8.

15 8. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
16 subsection, one million five hundred thousand dollars is appropriated each
17 fiscal year, to be paid in monthly installments, to the failing schools
18 tutoring fund established by section 15-241.

19 9. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
20 subsection, twenty-five million dollars shall be transferred each fiscal year
21 to the state general fund to reimburse the general fund for the cost of the
22 income tax credit allowed by section 43-1072.01.

23 10. After the payment of monies pursuant to paragraphs 1 through 9 of
24 this subsection, the remaining monies collected during the preceding month
25 shall be transferred to the classroom site fund established by section
26 15-977. The monies shall be allocated as follows in the manner prescribed by
27 section 15-977:

28 (a) Forty per cent shall be allocated for teacher compensation based
29 on performance.

30 (b) Twenty per cent shall be allocated for increases in teacher base
31 compensation and employee related expenses.

32 (c) Forty per cent shall be allocated for maintenance and operation
33 purposes.

34 F. The department shall credit the remainder of the monies in the
35 transaction privilege and severance tax clearing account to the state general
36 fund, subject to any distribution required by section 42-5030.01.

37 G. Notwithstanding subsection D of this section, if a court of
38 competent jurisdiction finally determines that tax monies distributed under
39 this section were illegally collected under this article or articles 5 and 8
40 of this chapter and orders the monies to be refunded to the taxpayer, the
41 department shall compute the amount of such monies that was distributed to
42 each city, town and county under this section. Each city's, town's and
43 county's proportionate share of the costs shall be based on the amount of the
44 original tax payment each municipality and county received. Each month the
45 state treasurer shall reduce the amount otherwise distributable to the city,
46 town and county under this section by one thirty-sixth of the total amount to

1 be recovered from the city, town or county until the total amount has been
2 recovered, but the monthly reduction for any city, town or county shall not
3 exceed ten per cent of the full monthly distribution to that entity. The
4 reduction shall begin for the first calendar month after the final
5 disposition of the case and shall continue until the total amount, including
6 interest and costs, has been recovered.

7 H. On receiving a certificate of default from the greater Arizona
8 development authority pursuant to section 41-2257 or 41-2258 and to the
9 extent not otherwise expressly prohibited by law, the state treasurer shall
10 withhold from the next succeeding distribution of monies pursuant to this
11 section due to the defaulting political subdivision the amount specified in
12 the certificate of default and immediately deposit the amount withheld in the
13 greater Arizona development authority revolving fund. The state treasurer
14 shall continue to withhold and deposit the monies until the greater Arizona
15 development authority certifies to the state treasurer that the default has
16 been cured. In no event may the state treasurer withhold any amount that the
17 defaulting political subdivision certifies to the state treasurer and the
18 authority as being necessary to make any required deposits then due for the
19 payment of principal and interest on bonds of the political subdivision that
20 were issued before the date of the loan repayment agreement or bonds and that
21 have been secured by a pledge of distributions made pursuant to this section.

22 I. Except as provided by sections 42-5033 and 42-5033.01, the
23 population of a county, city or town as determined by the most recent United
24 States decennial census plus any revisions to the decennial census certified
25 by the United States bureau of the census shall be used as the basis for
26 apportioning monies pursuant to subsection D of this section.

27 J. Except as otherwise provided by this subsection, on notice from the
28 department of revenue pursuant to section 42-6010, subsection B, the state
29 treasurer shall withhold from the distribution of monies pursuant to this
30 section to the affected city or town the amount of the penalty for business
31 location municipal tax incentives provided by the city or town to a business
32 entity that locates a retail business facility in the city or town. The
33 state treasurer shall continue to withhold monies pursuant to this subsection
34 until the entire amount of the penalty has been withheld. The state
35 treasurer shall credit any monies withheld pursuant to this subsection to the
36 state general fund as provided by subsection D, paragraph 4 of this section.
37 The state treasurer shall not withhold any amount that the city or town
38 certifies to the department of revenue and the state treasurer as being
39 necessary to make any required deposits or payments for debt service on bonds
40 or other long-term obligations of the city or town that were issued or
41 incurred before the location incentives provided by the city or town.

42 K. On notice from the auditor general pursuant to section 9-626,
43 subsection D, the state treasurer shall withhold from the distribution of
44 monies pursuant to this section to the affected city the amount computed
45 pursuant to section 9-626, subsection D. The state treasurer shall continue
46 to withhold monies pursuant to this subsection until the entire amount

1 specified in the notice has been withheld. The state treasurer shall credit
 2 any monies withheld pursuant to this subsection to the state general fund as
 3 provided by subsection D, paragraph 4 of this section.

4 L. EXCEPT AS OTHERWISE PROVIDED BY THIS SUBSECTION, ON NOTICE FROM THE
 5 ATTORNEY GENERAL PURSUANT TO SECTION 41-194.01, SUBSECTION B, PARAGRAPH 1
 6 THAT AN ORDINANCE, REGULATION, ORDER OR OTHER OFFICIAL ACTION ADOPTED OR
 7 TAKEN BY THE GOVERNING BODY OF A COUNTY, CITY OR TOWN VIOLATES STATE LAW OR
 8 THE CONSTITUTION OF ARIZONA, THE STATE TREASURER SHALL WITHHOLD THE
 9 DISTRIBUTION OF MONIES PURSUANT TO THIS SECTION TO THE AFFECTED COUNTY, CITY
 10 OR TOWN AND SHALL CONTINUE TO WITHHOLD MONIES PURSUANT TO THIS SUBSECTION
 11 UNTIL THE ATTORNEY GENERAL CERTIFIES TO THE STATE TREASURER THAT THE
 12 VIOLATION HAS BEEN RESOLVED. THE STATE TREASURER SHALL REDISTRIBUTE THE
 13 MONIES WITHHELD PURSUANT TO THIS SUBSECTION AMONG ALL OTHER COUNTIES, CITIES
 14 AND TOWNS IN PROPORTION TO THEIR POPULATION AS PROVIDED BY SUBSECTION D OF
 15 THIS SECTION. THE STATE TREASURER SHALL NOT WITHHOLD ANY AMOUNT THAT THE
 16 COUNTY, CITY OR TOWN CERTIFIES TO THE ATTORNEY GENERAL AND THE STATE
 17 TREASURER AS BEING NECESSARY TO MAKE ANY REQUIRED DEPOSITS OR PAYMENTS FOR
 18 DEBT SERVICE ON BONDS OR OTHER LONG-TERM OBLIGATIONS OF THE COUNTY, CITY OR
 19 TOWN THAT WERE ISSUED OR INCURRED BEFORE COMMITTING THE VIOLATION.

20 ~~L.~~ M. For the purposes of this section, "community college district"
 21 means a community college district that is established pursuant to sections
 22 15-1402 and 15-1403 and that is a political subdivision of this state and,
 23 unless otherwise specified, includes a community college tuition financing
 24 district established pursuant to section 15-1409.

25 Sec. 3. Section 43-206, Arizona Revised Statutes, is amended to read:

26 43-206. Urban revenue sharing fund; allocation; distribution;
 27 withholding

28 A. ~~There is established an~~ THE urban revenue sharing fund IS
 29 ESTABLISHED. The fund shall consist of an amount equal to fifteen ~~per cent~~
 30 PERCENT of the net proceeds of the state income taxes for the fiscal year two
 31 years preceding the current fiscal year. The fund shall be distributed to
 32 incorporated cities and towns as provided in this section, except that a city
 33 or town shall receive at least an amount equal to what a city or town with a
 34 population of fifteen hundred or more persons would receive. The transfer of
 35 net proceeds prescribed by section 49-282, subsection B does not affect the
 36 calculation of net proceeds prescribed by this subsection.

37 B. Each city or town shall share in the urban revenue sharing fund in
 38 the proportion that the population of each bears to the population of all.
 39 Except as provided by sections 42-5033 and 42-5033.01, the population of a
 40 city or town as determined by the most recent United States decennial census
 41 plus any revisions to the decennial census certified by the United States
 42 bureau of the census shall be used as the basis for apportioning monies
 43 pursuant to this subsection.

44 C. The treasurer, ~~upon~~ ON instruction from the department, shall
 45 transmit, no later than the tenth day of each month, to each city or town an
 46 amount equal to one-twelfth of that city's or town's total entitlement for

1 the current fiscal year from the urban revenue sharing fund as determined by
2 the department.

3 D. A newly incorporated city or town shall share in the urban revenue
4 sharing fund beginning the first month of the first full fiscal year
5 following incorporation.

6 E. On receipt of a certificate of default from the greater Arizona
7 development authority pursuant to section 41-2257 or 41-2258, the state
8 treasurer, to the extent not otherwise expressly prohibited by law, shall
9 withhold from the next succeeding distribution of monies pursuant to this
10 section due to the city or town the amount specified in the certificate of
11 default and immediately deposit the amount withheld in the greater Arizona
12 development authority revolving fund. The state treasurer shall continue to
13 withhold and deposit the monies until the authority certifies to the state
14 treasurer that the default has been cured. In no event shall the state
15 treasurer withhold any amount that is necessary, as certified by the
16 defaulting political subdivision to the state treasurer and the authority, to
17 make any required deposits then due for the payment of principal and interest
18 on bonds of the political subdivision that were issued prior to the date of
19 the loan repayment agreement or bonds and that have been secured by a pledge
20 of distributions made pursuant to this section.

21 F. EXCEPT AS OTHERWISE PROVIDED BY THIS SUBSECTION, ON NOTICE FROM THE
22 ATTORNEY GENERAL PURSUANT TO SECTION 41-194.01, SUBSECTION B, PARAGRAPH 1
23 THAT AN ORDINANCE, REGULATION, ORDER OR OTHER OFFICIAL ACTION ADOPTED OR
24 TAKEN BY THE GOVERNING BODY OF A CITY OR TOWN VIOLATES STATE LAW OR THE
25 CONSTITUTION OF ARIZONA, THE STATE TREASURER SHALL WITHHOLD THE DISTRIBUTION
26 OF MONIES PURSUANT TO THIS SECTION TO THE AFFECTED CITY OR TOWN AND SHALL
27 CONTINUE TO WITHHOLD MONIES PURSUANT TO THIS SUBSECTION UNTIL THE ATTORNEY
28 GENERAL CERTIFIES TO THE STATE TREASURER THAT THE VIOLATION HAS BEEN
29 RESOLVED. THE STATE TREASURER SHALL REDISTRIBUTE THE MONIES WITHHELD
30 PURSUANT TO THIS SUBSECTION AMONG ALL OTHER CITIES AND TOWNS IN PROPORTION TO
31 THEIR POPULATION AS PROVIDED BY SUBSECTION B OF THIS SECTION. THE STATE
32 TREASURER SHALL NOT WITHHOLD ANY AMOUNT THAT THE CITY OR TOWN CERTIFIES TO
33 THE ATTORNEY GENERAL AND THE STATE TREASURER AS BEING NECESSARY TO MAKE ANY
34 REQUIRED DEPOSITS OR PAYMENTS FOR DEBT SERVICE ON BONDS OR OTHER LONG-TERM
35 OBLIGATIONS OF THE CITY OR TOWN THAT WERE ISSUED OR INCURRED BEFORE
36 COMMITTING THE VIOLATION.