

REFERENCE TITLE: state treasurer; public monies; procedures

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

SB 1448

Introduced by
Senator Yee

AN ACT

AMENDING SECTIONS 35-101, 35-142 AND 35-313, ARIZONA REVISED STATUTES;
RELATING TO THE STATE TREASURER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 35-101, Arizona Revised Statutes, is amended to
3 read:

4 35-101. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Allotment" means the allocation of an appropriation or other
7 fund source over a full fiscal year within a budget program or expenditure
8 class.

9 2. "Annual budget unit" means the following agencies:

10 (a) The department of education.

11 (b) The Arizona board of regents.

12 (c) Arizona state university.

13 (d) Arizona state university west campus.

14 (e) Arizona state university east campus.

15 (f) The university of Arizona.

16 (g) Northern Arizona university.

17 (h) The school facilities board.

18 (i) The department of economic security.

19 (j) The state department of corrections.

20 (k) The department of juvenile corrections.

21 (l) The Arizona health care cost containment system.

22 (m) The department of health services.

23 (n) The department of administration.

24 (o) The department of transportation.

25 (p) The judiciary, including the supreme court, the court of
26 appeals and the superior court.

27 (q) The department of child safety.

28 3. "Authorized agent" means a commercial enterprise **THAT IS**
29 contracted to process transactions on behalf of a state agency.

30 4. "Biennial budget unit" means any department, commission, board,
31 institution or other agency of the state organization receiving, expending
32 or disbursing state funds or incurring obligations against the state that
33 is not an annual budget unit.

34 5. "Budget estimates" means statements with accompanying
35 explanations, as provided by this chapter, in which a budget unit states
36 its financial requirements and requests appropriations.

37 6. "Budget program" means functions and activities of a budget unit
38 or within a budget unit that are preplanned to fulfill a distinct mission.

39 7. "Budget unit" means any department, commission, board,
40 institution or other agency of the state organization receiving, expending
41 or disbursing state funds or incurring obligations against the state.
42 Budget unit includes the annual budget units and biennial budget units.

43 8. "Cardholder" means any person:

44 (a) Named on the face of a credit card to whom or for whose benefit
45 the credit card is issued by an issuer.

1 (b) In possession of a credit card with the consent of the person
2 to whom the credit card was issued.

3 9. "Claim" means a demand against the state for payment for either:

4 (a) Goods delivered or, in the case of highway construction, goods
5 or facilities to be delivered by the federal government.

6 (b) Services performed.

7 10. "Convenience fee" means an additional fee that is imposed by an
8 authorized agent on a web-based or voice response portal transaction for
9 the acceptance of a credit card that would not be charged if the same
10 transaction were completed by an alternate method of payment.

11 11. "Credit card" means:

12 (a) Any instrument or device, whether known as a credit card,
13 charge card, credit plate, courtesy card or identification card or by any
14 other name, **THAT IS** issued with or without a fee by an issuer for the use
15 of the cardholder in obtaining money, goods, services or anything else of
16 value, either on credit or in possession or in consideration of an
17 undertaking or guaranty by the issuer of the payment of a check drawn by
18 the cardholder, on a promise to pay in part or in full at a future time,
19 whether or not all or any part of the indebtedness represented by this
20 promise to make deferred payment is secured or unsecured.

21 (b) Any debit card, electronic benefit transfer card or other
22 access instrument or device, other than a check that is signed by the
23 holder or other authorized signatory on the deposit account, that draws
24 monies from a deposit account in order to obtain money, goods, services or
25 anything else of value.

26 (c) Any stored value card, smart card or other instrument or device
27 that enables a person to obtain goods, services or anything else of value
28 through the use of value stored on the instrument or device.

29 (d) The number assigned to an instrument or device described in
30 subdivision (a), (b) or (c) of this paragraph even if the physical
31 instrument or device is not used or presented.

32 12. "Discount fee" means the fee **THAT IS** calculated and charged by
33 the credit card issuer or a financial institution pursuant to an agreement
34 for the processing of any credit card transaction.

35 13. "Encumbrance" means an obligation in the form of any purchase
36 order, contract or other commitment ~~which~~ **THAT** is chargeable to an
37 appropriation or any other authorized fund source and for which a part of
38 the fund source is reserved. It ceases to be an encumbrance when paid or
39 canceled.

40 14. "Expenditure class" means one of the kinds of expenditure
41 denoting a class of services or commodities purchased or properties
42 acquired as specified in the classification of expenditures prescribed by
43 the director of the department of administration for use in expenditure
44 accounting, in making budget estimates and in the budget reports and
45 budgets.

1 15. "Issuer" means any business organization, state agency or
2 financial institution, or its duly authorized agent, that issues a credit
3 card.

4 16. "Prepayment" means the payment of a claim before receiving the
5 goods or services.

6 17. "Processing fee" means a fee THAT IS charged by an entity other
7 than a credit card issuer or the processing financial institution to
8 process a credit card transaction.

9 18. "Purchase order" means a document that is signed by the
10 appropriate agency authorized signatory, that requests a vendor to deliver
11 described goods or services at a specific price and that on delivery and
12 acceptance of the goods or services by this state becomes an obligation of
13 this state.

14 19. "SERVICE FEE OR SURCHARGE" MEANS A FEE, WHETHER FIXED OR
15 VARIABLE, THAT IS IN ADDITION TO THE TRANSACTION AMOUNT, THAT IS CHARGED
16 BY A STATE AGENCY WHEN THE STATE AGENCY ACCEPTS A CREDIT CARD FOR PAYMENT
17 AND THAT IS NECESSARY FOR THE STATE AGENCY TO PROCESS THE PAYMENT.

18 ~~19.~~ 20. "Transaction amount" means the total amount due to the
19 state for any goods, service or license or anything else of value.

20 Sec. 2. Section 35-142, Arizona Revised Statutes, is amended to
21 read:

22 35-142. Monies kept in funds separate from state general
23 fund; receipt and withdrawal

24 A. All monies received for and belonging to the state shall be
25 deposited in the state treasury and credited to the state general fund
26 except the following, which shall be placed and retained in separate
27 funds:

28 1. The unexpendable principal of monies received from federal land
29 grants shall be placed in separate funds and the account of each such
30 separate fund shall bear a title indicating the source and the institution
31 or purpose to which such fund belongs.

32 2. The interest, rentals and other expendable money received as
33 income from federal land grants shall be placed in separate accounts, each
34 account bearing a title indicating the source and the institution or
35 purpose to which the fund belongs. Such expendable monies shall be
36 expended only as authorized, regulated and controlled by the general
37 appropriation act or other act of the legislature.

38 3. All private or quasi-private monies authorized by law to be paid
39 to or held by the state treasurer shall be placed in separate accounts,
40 each account bearing a title indicating the source and purpose of such
41 fund.

42 4. All monies legally pledged to retirement of building
43 indebtedness or bonds issued by those institutions authorized to incur
44 such indebtedness or to issue such bonds shall be placed in separate
45 accounts.

1 5. Monies of a multi-county water conservation district authorized
2 by law to be paid to or held by the state treasurer shall be placed in
3 separate accounts, each account bearing a title indicating the source and
4 purpose of such fund.

5 6. All monies collected by the Arizona game and fish department
6 shall be deposited in a special fund known as the state game and fish
7 protection fund for the use of the Arizona game and fish commission in
8 carrying out the provisions of title 17.

9 7. All federal monies that are received by the department of
10 economic security for family assistance benefits and medical eligibility
11 as a result of efficiencies developed by the department of economic
12 security and that would otherwise revert to the state general fund
13 pursuant to section 35-190 shall be retained for use by the department of
14 economic security in accordance with the terms and conditions imposed by
15 the federal funding source in an account or accounts established or
16 authorized by the state treasurer.

17 8. Monies designated by law as special state funds shall not be
18 considered a part of the general fund. Unless otherwise prescribed by
19 law, the state treasurer shall be the custodian of all such funds.

20 9. All monies received and any accounts established and maintained
21 by the director of the Arizona state retirement system or the
22 administrator of the public safety personnel retirement system, the
23 corrections officer retirement plan and the elected officials' retirement
24 plan.

25 10. Monies received by a state agency or institution as a gift,
26 devise or donation shall not be considered a part of the state general
27 fund or transferred to the state general fund unless the gift, devise or
28 donation specifically authorizes a general state use for the monies. A
29 state agency or institution that receives a monetary gift, devise or
30 donation shall account for those monies separately.

31 B. No money shall be received or held by the state treasurer except
32 as authorized by law, and in every instance the treasurer shall issue a
33 receipt for money received and shall record the transaction in the
34 statewide accounting system. No money shall be withdrawn from the
35 treasury except on the warrant or electronic funds transfer voucher of the
36 department of administration.

37 C. Monies received for and belonging to the state and resulting
38 from compromises or settlements by or against this state, excluding
39 restitution and reimbursement to state agencies for costs or attorney
40 fees, shall be credited to the state general fund unless specifically
41 credited to another fund by law. A fund consisting of monies other than
42 monies received for restitution, costs or attorney fees shall not be
43 established on the basis of a court order without prior legislative
44 authorization. For the purposes of this subsection, "restitution" means

1 monies intended to compensate a specific, identifiable person, including
2 this state, for economic loss.

3 D. All federal monies granted and paid to the state by the federal
4 government shall be accounted for in the accounts or funds of the state in
5 the necessary detail to meet federal and state accounting, budgetary and
6 auditing requirements, and all appropriations for matching such federal
7 monies shall be transferred from the general fund to such separate funds
8 as needed, except as otherwise required by the federal government.

9 E. Nothing in this section requires the establishment of separate
10 accounts or funds for such federal monies unless otherwise required by
11 federal or state law. The department of administration has the authority
12 to use the most efficient system of accounts and records, consistent with
13 legal requirements and standard and necessary fiscal safeguards.

14 F. Nothing in this section precludes the creation by the department
15 of administration of a clearing account or other acceptable accounting
16 method to effect prompt payment of claims from an approved budget or
17 appropriation. The department of administration shall report each account
18 or fund established or cancelled to the directors of the joint legislative
19 budget committee and the governor's office of strategic planning and
20 budgeting.

21 G. Nothing in this section or any other section precludes the use
22 of monies kept in funds separate from the STATE general fund, the interest
23 from which accrues to the STATE general fund, for payment of claims
24 against the STATE general fund, provided sufficient monies remain
25 available for payment of claims against such funds.

26 H. The department of administration may issue warrants for
27 qualified expenditures of federal program monies before they are deposited
28 in the state treasury. The receipt of federal monies shall be timed to
29 coincide, as closely as administratively feasible, with the redemption of
30 warrants by the state treasurer. The department of administration shall
31 limit expenditures to the amount that has been made available for the use
32 under the grant award by the federal government. The state agency
33 initiating the expenditures is responsible for ensuring that expenditures
34 qualify for coverage under the guidelines of the federal grant award.

35 I. The department of administration shall establish the policies
36 and procedures for all state agencies for drawing federal monies. When
37 the established method results in federal monies being held by this state,
38 the department of administration may use the interest earned on the monies
39 to pay the federal government for any related interest liability. If an
40 interest liability is incurred due to a state agency varying from the
41 established policies and procedures, the department of administration
42 shall charge the appropriate agency account or fund. Any federal interest
43 liability owed to this state as a result of the delayed federal
44 disbursements shall be used to offset this state's interest liability to

1 the federal government. Any remaining interest earnings shall be
2 deposited in the state general fund.

3 J. Any state agency or authorized agent of a state agency may
4 accept credit cards pursuant to an agreement entered into by the state
5 treasurer pursuant to section 35-315 for the payment of any amount due to
6 that agency or agent or this state.

7 K. Except for the department of revenue, agencies or authorized
8 agents on behalf of state agencies that accept credit cards shall deduct
9 any applicable discount fee and processing fee associated with the
10 transaction amount before depositing the net amount in the appropriate
11 state fund. No other reduction is permitted against the transaction
12 amount. The net amount deposited in the appropriate state fund shall be
13 considered as the full deposit required by law of monies received by the
14 agency or the authorized agent. Payment of any applicable discount fee
15 and processing fee shall be accounted for in the annual report submitted
16 to the governor's office of strategic planning and budgeting in accordance
17 with section 41-1273. The transaction amount of any credit card
18 transaction shall not be reduced by any discount fee or processing fee in
19 an amount in excess of the merchant card settlement fees reflected in the
20 state banking contract with the state treasurer's office.

21 L. Any state agency that contracts with an authorized agent for the
22 electronic processing of transactions pursuant to title 41, chapter 23 may
23 include a provision in the contract to allow the authorized agent to
24 impose a convenience fee OR A SERVICE FEE OR SURCHARGE, OR BOTH. If
25 allowed, the convenience fee OR THE SERVICE FEE OR SURCHARGE, OR BOTH,
26 shall be charged to the cardholder in addition to the transaction amount,
27 except for the following:

28 1. Except as provided in subsection R of this section, any permits,
29 licenses or other authorizations needed to pursue a trade or occupation in
30 this state.

31 2. Except as provided in subsection R of this section, any permits,
32 licenses or other authorizations needed to establish, expand or operate a
33 business in this state.

34 3. Except as provided in subsection R of this section, any permits,
35 licenses or other authorizations needed to register a vehicle or license a
36 driver in this state.

37 M. Each state agency or its authorized agent shall:

38 1. Deduct the amount of the convenience fee OR THE SERVICE FEE OR
39 SURCHARGE, OR BOTH, before depositing the transaction amount or the
40 transaction amount reduced by the discount fee or the processing fee, or
41 both, into the appropriate state fund.

42 2. Not deduct any part of the convenience fee OR THE SERVICE FEE OR
43 SURCHARGE, OR BOTH, from the transaction amount before depositing the net
44 amount into the appropriate state fund.

1 3. Deduct the amount of the discount fee or the processing fee, or
 2 both, from the transaction amount before depositing the net amount into
 3 the appropriate state fund.

4 N. The net amount deposited in the appropriate state fund pursuant
 5 to subsection L or M of this section shall be considered as the full
 6 deposit of monies that is required by law and that is received by the
 7 agency.

8 O. BEFORE CHARGING A CONVENIENCE FEE OR A SERVICE FEE OR SURCHARGE,
 9 A STATE AGENCY SHALL SUBMIT THE PROPOSED CONVENIENCE FEE OR THE PROPOSED
 10 SERVICE FEE OR SURCHARGE TO THE STATE TREASURER FOR APPROVAL. IF THE
 11 STATE TREASURER DETERMINES THAT THE PROPOSED CONVENIENCE FEE OR THE
 12 PROPOSED SERVICE FEE OR SURCHARGE IS NECESSARY TO ENSURE THE EFFICIENT
 13 PROCESSING OF PAYMENTS TO THE STATE AGENCY AND IS IN COMPLIANCE WITH THE
 14 STANDARDS OF THE CREDIT CARD INDUSTRY, THE STATE TREASURER SHALL APPROVE
 15 THE CONVENIENCE FEE OR THE SERVICE FEE OR SURCHARGE. Notwithstanding
 16 section 35-142.01, convenience fees received by a state agency or its
 17 authorized agent ~~are limited to, and~~ may be used to offset, the costs
 18 imposed by the authorized agent in processing the transactions.

19 P. When the percentage of electronic transactions first exceeds at
 20 least thirty percent of a state agency's total transactions, the state
 21 agency shall perform a cost benefit report, including costs of convenience
 22 fees OR THE SERVICE FEE OR SURCHARGE, the amount of revenue generated and
 23 any realized cost savings.

24 Q. Nothing in this section or any other provision of law authorizes
 25 any state agency, authorized agent of any state agency or budget unit to
 26 establish a bank account for any government monies. All monies received
 27 by or on behalf of this state shall be deposited with and in the custody
 28 of the state treasurer or in an account that is authorized by the state
 29 treasurer pursuant to this section. This subsection does not apply to
 30 monies received and any accounts established and maintained by the
 31 director of the Arizona state retirement system or the administrator of
 32 the public safety personnel retirement system, the corrections officer
 33 retirement plan and the elected officials' retirement plan.

34 R. If a state agency provides an alternative method of payment, the
 35 convenience fee OR THE SERVICE FEE OR SURCHARGE may be charged to the
 36 cardholder in addition to the transaction amount.

37 Sec. 3. Section 35-313, Arizona Revised Statutes, is amended to
 38 read:

39 35-313. Investment of trust and treasury monies; loan of
 40 securities

41 A. The state treasurer shall invest and reinvest trust and treasury
 42 monies in any of the following items:

43 1. Obligations issued or guaranteed by the United States or any of
 44 its agencies, sponsored agencies, corporations, sponsored corporations or
 45 instrumentalities.

1 2. ~~Collateralized~~ Repurchase agreements ~~purchased from~~
2 COLLATERALIZED WITH securities ~~dealers that make markets in those~~
3 ~~securities listed in paragraph 1 of this subsection~~ THAT ARE AUTHORIZED
4 FOR INVESTMENT PURSUANT TO STATE LAW AND THAT ARE PURCHASED FROM
5 AUTHORIZED COUNTERPARTIES THAT HAVE ADEQUATE CAPITAL AND LIQUIDITY AS
6 DETERMINED BY THE STATE TREASURER.

7 3. Bonds or other evidences of indebtedness of this state or any of
8 the counties or incorporated cities, towns or duly organized school
9 districts.

10 4. Commercial paper whose issuer is ~~rated in one of the two highest~~
11 ~~rating categories~~ INVESTMENT GRADE for short-term obligations by any two
12 nationally recognized statistical rating organizations.

13 5. Bills of exchange or time drafts known as bankers acceptances
14 that are drawn on and accepted by a commercial bank.

15 6. Negotiable certificates of deposit issued by a nationally or
16 state chartered bank or savings and loan association.

17 7. Bonds, debentures, notes or other evidences of indebtedness that
18 are denominated in United States dollars and that carry an investment
19 grade rating by a nationally recognized bond rating agency.

20 8. Securities of or any other interests in any open-end or
21 closed-end management type investment company or investment trust,
22 including exchange traded products whose underlying investments are
23 invested in securities allowed by state law, registered under the
24 investment company act of 1940 (54 Stat. 789; 15 United States Code
25 sections 80a-1 through 80a-64), as amended. For any treasurer investment
26 pool that seeks to maintain a constant share price, both of the following
27 apply:

28 (a) The investment company or investment trust takes delivery of
29 the collateral for any repurchase agreement either directly or through an
30 authorized custodian.

31 (b) The investment policy of the investment company or investment
32 trust includes seeking to maintain a constant share price.

33 9. Certificates of deferred property taxes as provided by section
34 42-17309.

35 10. Treasurer's warrant notes issued pursuant to section 35-185.01
36 or registered warrants of a county issued pursuant to section 11-605, if
37 the yield is equal to or greater than yields on eligible investment
38 instruments of comparable maturities.

39 11. Shares in the treasurer's local government investment pools
40 pursuant to section 35-326 provided that investment policies of the pool
41 seek to maintain a constant share price.

42 12. Shares in the treasurer's long-term local government investment
43 pools, which terms are determined by the state board of investment,
44 pursuant to section 35-326.01.

1 13. Subject to subsection D of this section, state transportation
2 board funding obligations delivered pursuant to section 28-7678.

3 14. Deposits placed in accordance with the procedures prescribed in
4 section 35-323.01.

5 15. Institutional common trust funds whose underlying investments
6 are invested in securities allowed by state law.

7 16. Program funding obligations delivered by the credit enhancement
8 eligibility board pursuant to section 15-2157.

9 B. In case of default or failure to honor a county treasurer's
10 warrant, the state treasurer may withhold the first state shared revenues
11 that would otherwise be distributed to the defaulting county in the amount
12 necessary to honor the note, including accrued interest to and beyond the
13 date of default.

14 C. The state treasurer may contract to loan securities owned by the
15 trust funds and operating monies deposited in the investment pools
16 pursuant to section 35-316, subsection B to the financial or dealer
17 community through one or more of the entities listed in section 35-317,
18 subsection A, or authorized by the board of investment pursuant to section
19 35-311, subsection E, if the borrower transfers collateral to the state
20 treasurer or acting agent of the state in the form of cash or securities
21 ~~specified in subsection A of this section~~ AUTHORIZED FOR INVESTMENT
22 PURSUANT TO STATE LAW. Collateral posted in the form of cash shall be in
23 an amount equal to at least one hundred percent of the market value of the
24 loaned securities as agreed. Collateral posted in the form of securities
25 shall be in an amount of ~~no more than~~ AT LEAST one hundred ~~ten~~ TWO percent
26 of the market value of the loaned securities as established from time to
27 time by the board of investment. The loaned securities shall be valued as
28 to market value daily, and, if necessary, the borrower shall post
29 additional collateral, as agreed, to ensure that the required margin is
30 maintained. The state treasurer may collect from the borrower all
31 dividends, interest, premiums, rights and other distributions to which the
32 lender of securities would otherwise be entitled. The state treasurer may
33 terminate the contract on not less than five business days' notice, as
34 agreed, and the borrower may terminate the contract on not less than two
35 business days' notice, as agreed.

36 D. The state treasurer shall invest operating monies in state
37 transportation board funding obligations delivered pursuant to section
38 28-7678 pursuant to the following:

39 1. The state treasurer shall liquidate investments of operating
40 monies if necessary in order to invest in state transportation board
41 funding obligations, except that if operating monies in the state general
42 fund fall below an eight hundred million dollar average over the previous
43 twelve consecutive months, the state treasurer is not required to purchase
44 state transportation board funding obligations pursuant to this
45 subsection.

1 2. Each series of state transportation board funding obligations
2 shall bear interest at a fixed interest rate equal to the mean bid-ask
3 price of the United States treasury obligation with a maturity date
4 closest to the maturity date of the state transportation board funding
5 obligation as determined by the pricing system used by the state treasurer
6 before the date the state treasurer receives a certificate from the state
7 transportation board that states the board's determination to deliver an
8 obligation to the state treasurer and the anticipated delivery date of the
9 obligation. The delivery date shall be between fifteen and sixty days
10 after the day the state treasurer receives the certificate.

11 3. The state treasurer shall provide written notice to the state
12 transportation board and the director of the department of transportation
13 when the operating monies fall below four hundred million dollars. If
14 operating monies fall below two hundred million dollars, the state
15 treasurer may call the investment in the state transportation board
16 funding obligations in twenty-five million dollar increments up to the
17 amount that the operating monies are below two hundred million dollars.
18 The state treasurer shall give the state transportation board and the
19 director of the department of transportation at least fifteen days' notice
20 of the call.