

State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

SENATE BILL 1594

AN ACT

AMENDING SECTIONS 26-262 AND 41-2752, ARIZONA REVISED STATUTES; RELATING TO THE MILITARY INSTALLATION FUND.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 26-262, Arizona Revised Statutes, is amended to
3 read:

4 26-262. Military installation fund: rules: application
5 review: award and use of monies: reporting
6 requirements: definitions

7 A. The military installation fund is established consisting of
8 revenues made available to the fund from any lawful source. The adjutant
9 general shall administer the fund. On notice from the adjutant general,
10 the state treasurer shall invest and divest monies in the fund as provided
11 by section 35-313, and monies earned from investment shall be credited to
12 the fund. The fund is exempt from the provisions of section 35-190
13 relating to lapsing of appropriations.

14 B. Monies in the fund are continuously appropriated for the
15 purposes of this section.

16 C. The department, in conjunction with the military affairs
17 commission established by section 26-261, shall adopt by rule procedures
18 for receiving and evaluating applications and awarding the monies as
19 provided by subsection G of this section. If applications for monies
20 exceed the amount available in the fund, the department may request
21 applicants to reduce the amount of the applications or deny or award
22 reduced amounts.

23 D. The department shall receive each application for fund monies
24 and shall forward each application to the military affairs commission.
25 The military affairs commission shall review each application and
26 recommend to the department both of the following:

- 27 1. Each applicant that should be awarded monies from the fund.
- 28 2. The dollar amount that each applicant pursuant to paragraph 1 of
29 this subsection should be awarded from the fund.

30 E. The department shall consider the military affairs commission's
31 recommendations and shall decide how the monies in the fund shall be
32 awarded among the applicants. The department, after reviewing the
33 recommendations by the military affairs commission, shall make the monies
34 in the fund available for the purpose of military installation
35 preservation and enhancement projects. Except as provided in subsection F
36 of this section, after the department makes an award decision the
37 department shall award the monies.

38 F. If the department does not comply with the military affairs
39 commission's recommendation for the awards, within five days after the
40 department's decision the department shall report in writing to the
41 military affairs commission, the president of the senate, the speaker of
42 the house of representatives and the governor. The report shall include
43 the award decision of the department and the recommendation of the
44 military affairs commission. The department shall not distribute monies

1 from the fund to the applicants for at least sixty days after the report
2 is received.

3 G. The department shall:

4 1. Award eighty percent of the monies in the fund for the following
5 purposes, except that up to twenty percent of this amount may be awarded
6 to cities, towns and counties for the purpose of acquiring private land
7 for the purposes prescribed in paragraph 2 of this subsection:

8 (a) Acquisition of private property for the purpose of preserving a
9 military installation.

10 (b) Acquisition of real estate and rights to real estate and
11 otherwise preserving real estate from development or mitigating impacts on
12 development in high noise or accident potential zones as defined in
13 section 28-8461 and in areas as required to support a military
14 installation.

15 (c) Acquisition of real estate, property rights and related
16 infrastructure that are vital to the preservation or enhancement of a
17 military installation.

18 (d) Structural renovations or construction of building
19 modifications or improvements that mitigate or attenuate impacts in high
20 noise or accident potential zones.

21 (e) Removal of structures or improvements that are necessary for
22 acquisition of private property for the purpose of preserving a military
23 installation.

24 (f) Management of acquired property that is necessary to preserve
25 and enhance military missions and military installations.

26 2. Except as provided by subsection ~~T~~ M of this section, award
27 twenty percent of the monies in the fund to cities, towns and counties
28 for:

29 (a) Military installation preservation and enhancement projects or
30 analytical reports or studies that are requested by federal or state
31 agencies or military facilities in this state.

32 (b) Investment in or construction of capital improvements or
33 infrastructure for the purpose of preserving a military installation.

34 (c) Structural renovations or construction of building
35 modifications or improvements that mitigate or attenuate impacts in high
36 noise or accident potential zones.

37 (d) Removal of structures or improvements that are necessary for
38 acquisition of private property for the purpose of preserving a military
39 installation.

40 (e) Management of acquired property that is necessary to preserve
41 and enhance military missions and military installations.

42 H. Before awarding monies pursuant to subsection G of this section,
43 the department shall submit a report of the proposed awards to the joint
44 committee on capital review for review. The legislature shall review the

1 distribution formula prescribed in subsection G of this section at least
2 once every four years.

3 I. Monies in the fund may be awarded for debt service on bonds
4 issued by a political subdivision for the purpose of acquisition of
5 private property for the purpose of preserving a military airport or
6 ancillary military facility as defined in section 28-8461 if the land
7 acquisition occurs after December 31, 2004.

8 J. The department shall annually report the awards made pursuant to
9 this section. The report shall be in writing and shall be sent to the
10 president of the senate, the speaker of the house of representatives and
11 the governor. The department shall send a copy of this report to the
12 secretary of state.

13 K. The department may:

14 1. Transfer any real estate, property rights and related
15 infrastructure that are acquired pursuant to this section to any other
16 governmental agency for the purposes of preserving or enhancing military
17 installations in this state.

18 2. SELL OR OTHERWISE DISPOSE OF ANY REAL ESTATE, PROPERTY RIGHTS
19 AND RELATED INFRASTRUCTURE ACQUIRED PURSUANT TO THIS SECTION. THE
20 CONVEYANCE SHALL BE MADE TO THE HIGHEST AND MOST RESPONSIBLE BIDDER AT A
21 PUBLIC SALE HELD FOR THAT PURPOSE.

22 3. AFTER ESTABLISHING, LAYING OUT OR SUBSTANTIALLY COMPLETING AN
23 IMPROVEMENT TO REAL PROPERTY, CONVEY THE REAL PROPERTY OR ANY INTEREST IN
24 THE REAL PROPERTY THAT THE DEPARTMENT DETERMINES IS NOT NECESSARY, USEFUL
25 OR CONVENIENT FOR THE USE OF THE IMPROVEMENT BY THE DEPARTMENT. THE
26 CONVEYANCE SHALL BE MADE TO THE HIGHEST AND MOST RESPONSIBLE BIDDER AT A
27 PUBLIC SALE HELD FOR THAT PURPOSE.

28 4. LEASE OR SUBLEASE AT FAIR RENTAL VALUE ANY REAL ESTATE OR
29 RELATED INFRASTRUCTURE THAT IS ACQUIRED PURSUANT TO THIS SECTION. A LEASE
30 OR SUBLEASE THAT IS GRANTED PURSUANT TO THIS PARAGRAPH IS EXEMPT FROM
31 SECTION 41-2752.

32 L. BEFORE ANY CONVEYANCE, LEASE OR SUBLEASE PURSUANT TO SUBSECTION
33 K, PARAGRAPH 2, 3 OR 4 OF THIS SUBSECTION, THE DEPARTMENT SHALL ENSURE THE
34 USE OR DEVELOPMENT OF ANY REAL ESTATE, PROPERTY RIGHTS AND RELATED
35 INFRASTRUCTURE, REAL PROPERTY OR ANY IMPROVEMENTS TO REAL PROPERTY
36 COMPLIES WITH SECTION 28-8481.

37 M. If monies remain after the award of monies pursuant to
38 subsection G, paragraph 2 of this section, the department may use the
39 remaining monies AND ANY MONIES RECEIVED PURSUANT TO SUBSECTION K,
40 PARAGRAPHS 2, 3 AND 4 for either of the following:

41 1. The purposes prescribed in subsection G, paragraph 1 of this
42 section.

43 2. Projects or studies necessary to preserve or enhance military
44 missions and military installations in this state.

1 **N.** Any agency of this state may accept title to and manage real
2 estate, property rights and related infrastructure that are acquired
3 pursuant to this section.

4 **O.** For the purposes of this section:

5 1. "Department" means the department of emergency and military
6 affairs.

7 2. "Military installation" has the same meaning prescribed in
8 section 26-261.

9 Sec. 2. Section 41-2752, Arizona Revised Statutes, is amended to
10 read:

11 41-2752. State competition with private enterprise
12 prohibited; exceptions; definition

13 A. A state agency shall not engage in the manufacturing,
14 processing, sale, offering for sale, rental, leasing, delivery,
15 dispensing, distributing or advertising of goods or services to the public
16 that are also offered by private enterprise unless specifically authorized
17 by law other than administrative law and executive orders.

18 B. A state agency shall not offer or provide goods or services to
19 the public for or through another state agency or a local agency,
20 including by intergovernmental or interagency agreement, in violation of
21 this section or section 41-2753.

22 C. The restrictions on activities that compete with private
23 enterprise contained in this section do not apply to:

24 1. The development, operation and management of state parks,
25 historical monuments and hiking or equestrian trails.

26 2. Correctional industries established and operated by the state
27 department of corrections if the prices charged for products sold by the
28 correctional industries are not less than the actual cost of producing and
29 marketing the product plus a reasonable allowance for overhead and
30 administrative costs.

31 3. The office of tourism.

32 4. The Arizona highways magazine, operated by the department of
33 transportation.

34 5. Printing and distributing information to the public if the
35 agency is otherwise authorized to do so, and printing or copying public
36 records or other material relating to the public agency's public business
37 and recovering through fees and charges the costs of such printing,
38 copying and distributing.

39 6. The department of public safety.

40 7. The construction, maintenance and operation of state
41 transportation facilities.

42 8. The development, distribution, maintenance, support, licensing,
43 leasing or sale of computer software by the department of transportation.

1 9. Agreements executed by the Arizona health care cost containment
2 system administration with other states to design, develop, install and
3 operate information technology systems and related services or other
4 administrative services pursuant to section 36-2925.

5 10. Agreements executed by the department of economic security with
6 other states to design, develop, install and operate support collection
7 technology systems and related services. The department shall deposit,
8 pursuant to sections 35-146 and 35-147, monies received pursuant to this
9 paragraph in the public assistance collections fund established by section
10 46-295.

11 11. Educational, vocational, treatment, training or work programs
12 of the department of juvenile corrections and contracts between the
13 department of juvenile corrections and this state, a political subdivision
14 of this state or a private entity in order to provide employment or
15 vocational educational experience.

16 12. The aflatoxin control technologies of the cotton research and
17 protection council.

18 13. The lease or sublease of lands or buildings by the department
19 of economic security pursuant to section 41-1958.

20 14. The Arizona commerce authority.

21 15. The Arizona game and fish commission, but only for the sale of
22 goods or services and not firearms.

23 16. The lease or sublease of lands or buildings by the department
24 of child safety pursuant to section 8-460.

25 17. Agreements executed by the department of child safety with
26 other states to design, develop, install and operate support collection
27 technology systems and related services. The department shall deposit,
28 pursuant to sections 35-146 and 35-147, monies received pursuant to this
29 paragraph in the child safety collections fund established by section
30 8-461.

31 18. The lease or sublease of state hospital lands or buildings by
32 the department of health services.

33 19. The sale or lease of software, computer systems or intellectual
34 property developed by the department of education or associated services
35 provided for the sale or lease of software, computer systems or
36 intellectual property by the department of education. The department
37 shall deposit, pursuant to sections 35-146 and 35-147, sixty percent of
38 the profit from the monies generated pursuant to this paragraph in the
39 state general fund and the remaining forty percent in the department of
40 education intellectual property fund established by section 15-231.04.
41 The department of education may not transfer or expend monies or personnel
42 resources for the purposes of marketing or soliciting goods or services
43 authorized pursuant to this paragraph that were appropriated and
44 authorized for other functions and programs of the department of
45 education.

1 20. THE LEASE OR SUBLEASE OF ANY REAL ESTATE OR RELATED
2 INFRASTRUCTURE BY THE DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS
3 PURSUANT TO SECTION 26-262, SUBSECTION K, PARAGRAPH 4.

4 D. The restrictions on activities that compete with private
5 enterprise contained in subsection A of this section do not apply to
6 community colleges and universities under the jurisdiction of a governing
7 board.

8 E. For the purposes of this section, "profit" means any monies
9 generated from the sale or lease of goods and services after accounting
10 for the costs paid by this state, including appropriations from the state
11 general fund.