CHAPTER 238

HOUSE BILL 2030

AN ACT

AMENDING SECTIONS 23-391 AND 41-2501, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA STATE HOSPITAL.

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

Section 1. Section 23-391, Arizona Revised Statutes, is amended to read:

23-391. Overtime pay; workweek

A. Subject to availability of appropriated funds, an employee of this state or any political subdivision serving in a position determined by the law enforcement merit system council, the director of the department of administration, the Arizona board of regents, the board of directors for the Arizona state schools for the deaf and the blind or the governing body of a political subdivision, in the discretion of the board or body, to be eligible for overtime compensation and who is required to work in excess of the person's normal workweek shall be compensated for the excess time at the following rates:

1. One and one-half times the regular rate at which the person is employed or one and one-half hours of compensatory time off for each hour worked if overtime compensation is mandated by federal law.

2. If federal law does not mandate overtime compensation, the person shall receive the regular rate of pay or compensatory leave on an hour-for-hour basis at the discretion of the board or governing body.

B. Notwithstanding subsection A of this section, the state or a political subdivision may provide, by action of the law enforcement merit system council, the Arizona board of regents, the board of directors for the Arizona state schools for the deaf and the blind or the director of the department of administration in the case of the state or of the governing body of the political subdivision, for a workweek of forty hours in less than five days for certain classes of employees employed by the state or the political subdivision.

C. For state agencies of the state personnel system, unless otherwise provided by law, the state workweek is the period of seven consecutive days starting Saturday at 12:00 a.m. and ending Friday at 11:59 p.m. Notwithstanding any other law, the director of the department of administration may authorize a workday, for the method and purpose of recording time entries to be included in a workweek and a pay period for employees of this state who are in the correctional officer class series of the state department of corrections or who are employed at the Arizona State Hospital and who are regularly scheduled to work a shift that spans two calendar days, defined as the day a majority of the hours are regularly scheduled to be worked. If the regularly scheduled hours are equally split between two calendar days, the workday is defined as the day the shift ends. Scheduled shift start and end times shall not be adjusted to avoid the payment of overtime.
Sec. 2. Section 41-2501, Arizona Revised Statutes, is amended to read:

41-2501. Applicability

A. This chapter applies only to procurements initiated after January 1, 1985 unless the parties agree to its application to procurements initiated before that date.

B. This chapter applies to every expenditure of public monies, including federal assistance monies except as otherwise specified in section 41-2637, by this state, acting through a state governmental unit as defined in this chapter, under any contract, except that this chapter does not apply to either grants as defined in this chapter, or contracts between this state and its political subdivisions or other governments, except as provided in chapter 24 of this title and in article 10 of this chapter. This chapter also applies to the disposal of state materials. This chapter and rules adopted under this chapter do not prevent any state governmental unit or political subdivision from complying with the terms of any grant, gift, bequest or cooperative agreement.

C. All political subdivisions and other local public agencies of this state may adopt all or any part of this chapter and the rules adopted pursuant to this chapter.

D. Notwithstanding any other law, sections 41-2517 and 41-2546 apply to any agency as defined in section 41-1001, including the office of the governor.

E. The Arizona board of regents and the legislative and judicial branches of state government are not subject to this chapter except as prescribed in subsection F of this section.

F. The Arizona board of regents and the judicial branch shall adopt rules prescribing procurement policies and procedures for themselves and institutions under their jurisdiction. The rules must be substantially equivalent to the policies and procedures prescribed in this chapter.

G. The Arizona state lottery commission is exempt from this chapter for procurement relating to the design and operation of the lottery or purchase of lottery equipment, tickets and related materials. The executive director of the Arizona state lottery commission shall adopt rules substantially equivalent to the policies and procedures in this chapter for procurement relating to the design and operation of the lottery or purchase of lottery equipment, tickets or related materials. All other procurement shall be as prescribed by this chapter.

H. The Arizona health care cost containment system administration is exempt from this chapter for provider contracts pursuant to section 36-2904, subsection A and contracts for goods and services, including program contractor contracts pursuant to title 36, chapter 29, articles 2 and 3 and contracts with regional behavioral health authorities pursuant to title 36, chapter 34. All other procurement, including contracts for
the statewide administrator of the program pursuant to section 36-2903, subsection B, shall be as prescribed by this chapter.

I. Arizona correctional industries is exempt from this chapter for purchases of raw materials, components and supplies that are used in the manufacture or production of goods or services for sale entered into pursuant to section 41-1622. All other procurement shall be as prescribed by this chapter.

J. The state transportation board and the director of the department of transportation are exempt from this chapter other than sections 41-2517 and 41-2586 and are subject to title 28, chapter 20 and 2 Code of Federal Regulations section 200.317 for the procurement of the following:

1. All items of construction, reconstruction, rehabilitation, preservation or improvement undertaken on highway infrastructure.
2. Engineering services and any other work or activity to carry out engineering services related to highway infrastructure.
3. Right-of-way services related to land titles, appraisals, real property acquisitions, relocation services, property management and facility design.
4. Any other construction, reconstruction, rehabilitation, preservation or improvement work or activity that is required pursuant to title 28, chapter 20.

K. The Arizona highways magazine is exempt from this chapter for contracts for the production, promotion, distribution and sale of the magazine and related products and for contracts for sole source creative works entered into pursuant to section 28-7314, subsection A, paragraph 5. All other procurement shall be as prescribed by this chapter.

L. The secretary of state is exempt from this chapter for contracts entered into pursuant to section 41-1012 to publish and sell the administrative code. All other procurement shall be as prescribed by this chapter.

M. This chapter is not applicable to contracts for professional witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial proceeding in which this state is or may become a party or to contract for special investigative services for law enforcement purposes.

N. The head of any state governmental unit, in relation to any contract exempted by this section from this chapter, has the same authority to adopt rules, procedures or policies as is delegated to the director pursuant to this chapter.

O. Agreements negotiated by legal counsel representing this state in settlement of litigation or threatened litigation are exempt from this chapter.
P. This chapter is not applicable to contracts entered into by the department of economic security:
   1. With a provider licensed or certified by an agency of this state to provide child day care services.
   2. With area agencies on aging created pursuant to the older Americans act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code sections 3001 through 3058ff).
   3. For services pursuant to title 36, chapter 29, article 2.
   4. With an eligible entity as defined by Public Law 105-285, section 673(1)(A)(i), as amended, for designated community services block grant program monies and any other monies given to the eligible entity that accomplishes the purpose of Public Law 105-285, section 672.
   Q. The Arizona health care cost containment system may not require that persons with whom it contracts follow this chapter for the purposes of subcontracts entered into for the provision of the following:
      1. Mental health services pursuant to section 36-189, subsection B.
      2. Services for the seriously mentally ill pursuant to title 36, chapter 5, article 10.
   R. The department of health services may not require that persons with whom it contracts follow this chapter for the purpose of subcontracts entered into for the provision of domestic violence services pursuant to title 36, chapter 30, article 1.
   S. The department of health services is exempt from this chapter for contracts for services of physicians at the Arizona state hospital AND CONTRACTS TO PROVIDE MEDICALLY NECESSARY PHYSICAL HEALTH CARE TO INDIVIDUALS UNDER THE CARE OF THE ARIZONA STATE HOSPITAL.
   T. Contracts for goods and services approved by the board of trustees of the public safety personnel retirement system are exempt from this chapter.
   U. The Arizona department of agriculture is exempt from this chapter with respect to contracts for private labor and equipment to effect cotton or cotton stubble plow-up pursuant to rules adopted under title 3, chapter 2, article 1.
   V. The Arizona state parks board is exempt from this chapter for purchases of guest supplies and items for resale such as food, linens, gift items, sundries, furniture, china, glassware and utensils for the facilities located in the Tonto natural bridge state park.
   W. The Arizona state parks board is exempt from this chapter for the purchase, production, promotion, distribution and sale of publications, souvenirs and sundry items obtained and produced for resale.
   X. The Arizona state schools for the deaf and the blind are exempt from this chapter for the purchase of textbooks and when purchasing products through a cooperative that is organized and operates in accordance with state law if such products are not available on a
statewide contract and are related to the operation of the schools or are products for which special discounts are offered for educational institutions.

Y. Expenditures of monies in the morale, welfare and recreational fund established by section 26-153 are exempt from this chapter.

Z. Notwithstanding section 41-2534, the director of the state department of corrections may contract with local medical providers in counties with a population of less than four hundred thousand persons for the following purposes:

1. To acquire hospital and professional medical services for inmates who are incarcerated in state department of corrections facilities that are located in those counties.

2. To ensure the availability of emergency medical services to inmates in all counties by contracting with the closest medical facility that offers emergency treatment and stabilization.

AA. The department of environmental quality is exempt from this chapter for contracting for procurements relating to the water quality assurance revolving fund program established pursuant to title 49, chapter 2, article 5. The department shall engage in a source selection process that is similar to the procedures prescribed by this chapter. The department may contract for remedial actions with a single selection process. The exclusive remedy for disputes or claims relating to contracting pursuant to this subsection is as prescribed by article 9 of this chapter and the rules adopted pursuant to that article. All other procurement by the department shall be as prescribed by this chapter.

BB. The motor vehicle division of the department of transportation is exempt from this chapter for third-party authorizations pursuant to title 28, chapter 13, only if all of the following conditions exist:

1. The division does not pay any public monies to an authorized third party.

2. Exclusivity is not granted to an authorized third party.

3. The director has complied with the requirements prescribed in title 28, chapter 13 in selecting an authorized third party.

CC. This section does not exempt third-party authorizations pursuant to title 28, chapter 13 from any other applicable law.

DD. The state forester is exempt from this chapter for purchases and contracts relating to wildland fire suppression and pre-positioning equipment resources and for other activities related to combating wildland fires and other unplanned risk activities, including fire, flood, earthquake, wind and hazardous material responses. All other procurement by the state forester shall be as prescribed by this chapter.

EE. The cotton research and protection council is exempt from this chapter for procurements.
FF. The Arizona commerce authority is exempt from this chapter, except article 10 for the purpose of cooperative purchases. The authority shall adopt policies, procedures and practices, in consultation with the department of administration, that are similar to and based on the policies and procedures prescribed by this chapter for the purpose of increased public confidence, fair and equitable treatment of all persons engaged in the process and fostering broad competition while accomplishing flexibility to achieve the authority's statutory requirements. The authority shall make its policies, procedures and practices available to the public. The authority may exempt specific expenditures from the policies, procedures and practices.

GG. The Arizona exposition and state fair board is exempt from this chapter for contracts for professional entertainment.

HH. This chapter does not apply to the purchase of water, gas or electric utilities.

II. This chapter does not apply to professional certifications, professional memberships and conference registrations.

JJ. The department of gaming is exempt from this chapter for problem gambling treatment services contracts with licensed behavioral health professionals.

KK. This chapter does not apply to contracts for credit reporting services.

LL. This chapter does not apply to contracts entered into by the department of child safety:

1. With a provider of family foster care pursuant to section 8-503.
2. With an eligible entity as defined by Public Law 105-285, section 673(1)(A)(i), as amended, for designated community services block grant program monies and any other monies given to the eligible entity that accomplishes the purpose of Public Law 105-285, section 672.
3. For services pursuant to title 36, chapter 29, article 1 and as set forth in the approved medicaid state plan.

MM. This chapter does not apply to contracts entered into by the department of economic security with a financial institution to serve as a program manager and depository under section 46-903.