SENATE CONCURRENT RESOLUTION 1049

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING TO TAXATION BENEFITTING FIRE DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

1. Under the power of the referendum, as vested in the Legislature, the following measure, relating to taxation benefitting fire districts, is enacted to become valid as a law if approved by the voters and on proclamation of the Governor:

   AN ACT

   AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5010.02; AMENDING SECTION 42-5155, ARIZONA REVISED STATUTES; AMENDING TITLE 48, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 48-825; RELATING TO TAXATION BENEFITTING FIRE DISTRICTS.

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

   Section 1. Title 42, chapter 5, article 1, Arizona Revised Statutes, is amended by adding section 42-5010.02, to read:

   42-5010.02. Transaction privilege tax; additional rate increment; fire districts

   A. From and after December 31, 2022 through December 31, 2042, in addition to the rates prescribed by section 42-5010, subsection A and section 42-5010.01, subsection A, an additional rate increment is imposed and shall be collected. The additional tax rate increment is levied at the rate of one-tenth of one percent of the tax base of every person engaging or continuing in this state in a business classification listed in section 42-5010, subsection A, paragraph 1.

   B. The taxpayer shall pay taxes pursuant to this section at the same time and in the same manner as under section 42-5010, subsection A. Notwithstanding any other law, the department shall separately account for the revenues collected with respect to the rates imposed by this section and shall deposit those revenues in the fire district safety fund established by section 48-825.

   Sec. 2. Section 42-5155, Arizona Revised Statutes, is amended to read:

   42-5155. Levy of tax; tax rate; purchaser's liability

   A. There is levied and imposed an excise tax on the storage, use or consumption in this state of tangible personal property purchased from a retailer or utility business, as a percentage of the sales price. A manufactured building purchased outside this state and set up in this state is
subject to tax under this section and in this case the rate is
a percentage of sixty-five percent of the sales price.

B. The tax imposed by this section applies to any
purchaser that purchased tangible personal property for resale
but subsequently uses or consumes the property.

C. The tax rate shall equal the rate of tax prescribed
by section 42-5010, subsection A as applied to retailers and
utility businesses according to the respective classification
under articles 1 and 2 of this chapter for the same type of
transaction or business activity.

D. In addition to the rate prescribed by subsection C
of this section, if approved by the qualified electors voting
at a statewide general election, an additional rate increment
of six-tenths of one PERCENT is imposed and shall be
collected through June 30, 2021. The taxpayer shall pay taxes
pursuant to this subsection at the same time and in the same
manner as under subsection C of this section. The department
shall separately account for the revenues collected with
respect to the rate imposed pursuant to this subsection, and
the state treasurer shall pay all of those revenues in the
manner prescribed by section 42-5029, subsection E.

E. From and after June 30, 2021 through June 30, 2041,
in addition to the rate prescribed by subsection C of this
section, an additional rate increment of six-tenths of one
percent is imposed and shall be collected. The taxpayer shall
pay taxes pursuant to this subsection at the same time and in
the same manner as under subsection C of this section. The
department shall separately account for the revenues collected
with respect to the rate imposed pursuant to this subsection, and
the state treasurer shall pay all of those revenues in the
manner prescribed by section 42-5029.02, subsection A.

F. FROM AND AFTER DECEMBER 31, 2022 THROUGH DECEMBER
31, 2042, IN ADDITION TO THE RATES PRESCRIBED BY SUBSECTIONS C
AND E OF THIS SECTION, AN ADDITIONAL RATE INCREMENT OF
ONE-TENTH OF ONE PERCENT IS IMPOSED AND SHALL BE COLLECTED.
THE TAXPAYER SHALL PAY TAXES PURSUANT TO THIS SUBSECTION AT
THE SAME TIME AND IN THE SAME MANNER AS UNDER SUBSECTION C OF
THIS SECTION. NOTWITHSTANDING ANY OTHER LAW, THE DEPARTMENT
SHALL SEPARATELY ACCOUNT FOR THE REVENUES COLLECTED WITH
RESPECT TO THE RATE IMPOSED PURSUANT TO THIS SUBSECTION AND
SHALL DEPOSIT THOSE REVENUES IN THE FIRE DISTRICT SAFETY FUND
ESTABLISHED BY SECTION 48-825.
G. Every person storing, using or consuming in this state tangible personal property purchased from a retailer or utility business is liable for the tax. The person's liability is not extinguished until the tax has been paid to this state.

H. A receipt from a retailer or utility business that maintains a place of business in this state or from a retailer or utility business that is authorized by the department to collect the tax, under such rules as it may prescribe, and that is for the purposes of this article regarded as a retailer or utility business maintaining a place of business in this state, given to the purchaser as provided in section 42-5161 is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

Sec. 3. Title 48, chapter 5, article 1, Arizona Revised Statutes, is amended by adding section 48-825, to read:

48-825. Fire district safety fund; distribution; definition

A. THE FIRE DISTRICT SAFETY FUND IS ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 42-5010.02 AND SECTION 42-5155, SUBSECTION F, PRIVATE DONATIONS AND INTEREST EARNED ON THOSE MONIES. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. THE STATE TREASURER SHALL ADMINISTER THE FUND. MONIES IN THE FUND AND ITS ACCOUNTS MAY NOT BE TRANSFERRED TO ANY OTHER FUND EXCEPT AS PROVIDED IN THIS SECTION AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

B. ALL MONIES IN THE FUND MUST FIRST BE SPENT, AND THE STATE TREASURER SHALL TRANSFER MONIES FROM THE FUND, TO PAY:

1. THE ACTUAL REASONABLE COSTS INCURRED BY THE STATE TREASURER TO ADMINISTER THE FUND.

2. THE ACTUAL REASONABLE COSTS INCURRED BY THE DEPARTMENT OF REVENUE TO IMPOSE AND COLLECT THE ADDITIONAL TAX RATE INCREMENTS ESTABLISHED BY SECTION 42-5010.02 AND SECTION 42-5155, SUBSECTION F.

3. ANY OTHER MANDATORY EXPENDITURE OF STATE REVENUES REQUIRED TO IMPLEMENT THIS SECTION, SECTION 42-5010.02 OR SECTION 42-5155, SUBSECTION F.

C. THE STATE TREASURER MAY PRESCRIBE FORMS NECESSARY TO MAKE TRANSFERS FROM THE FUND PURSUANT TO SUBSECTION B OF THIS SECTION.
D. AT THE END OF EACH MONTH, THE STATE TREASURER SHALL TRANSFER THE MONIES IN THE FUND IN EXCESS OF THE AMOUNTS PAID PURSUANT TO SUBSECTION B OF THIS SECTION AS FOLLOWS:

1. IN INITIAL DISTRIBUTIONS TO FIRE DISTRICTS IN PROPORTION TO EACH FIRE DISTRICT'S MOST RECENT FINALLY EQUALIZED VALUATION OF ALL PROPERTY FILED WITH THE PROPERTY TAX OVERSIGHT COMMISSION UNDER SECTION 42-17052, SUBSECTION A, PARAGRAPH 1, EXCEPT THAT A FIRE DISTRICT MAY NOT RECEIVE MORE THAN THREE PERCENT OF THE TOTAL AMOUNT OF MONIES TRANSFERRED TO ALL FIRE DISTRICTS EACH MONTH UNDER THIS SUBSECTION.

2. IN SECOND DISTRIBUTIONS OF THE REMAINING MONIES TO FIRE DISTRICTS THAT RECEIVED LESS THAN THREE PERCENT OF THE TOTAL AMOUNT OF MONIES TRANSFERRED TO ALL FIRE DISTRICTS EACH MONTH IN THEIR INITIAL DISTRIBUTIONS UNDER PARAGRAPH 1 OF THIS SUBSECTION IN PROPORTION TO THOSE FIRE DISTRICTS' MOST RECENT FINALLY EQUALIZED VALUATION OF ALL PROPERTY FILED WITH THE PROPERTY TAX OVERSIGHT COMMISSION UNDER SECTION 42-17052, SUBSECTION A, PARAGRAPH 1, EXCEPT THAT A FIRE DISTRICT'S TOTAL DISTRIBUTIONS UNDER THIS PARAGRAPH AND PARAGRAPH 1 OF THIS SUBSECTION MAY NOT EXCEED THREE PERCENT OF THE TOTAL AMOUNT OF MONIES TRANSFERRED TO ALL FIRE DISTRICTS EACH MONTH UNDER THIS SUBSECTION.

3. IN FINAL DISTRIBUTIONS OF ANY REMAINING MONIES DIVIDED EQUALLY BETWEEN ALL FIRE DISTRICTS.

E. NOTWITHSTANDING ANY OTHER LAW, MONIES TRANSFERRED TO A FIRE DISTRICT UNDER THIS SECTION:

1. FOR A FIRE DISTRICT THAT DOES NOT PARTICIPATE IN A JOINT POWERS AUTHORITY UNDER SECTION 48-805.01, MUST BE DEPOSITED IN THE FIRE DISTRICT GENERAL FUND KEPT FOR THAT FIRE DISTRICT BY THE COUNTY TREASURER PURSUANT TO SECTION 48-807, SUBSECTION L.

2. FOR A FIRE DISTRICT THAT PARTICIPATES IN A JOINT POWERS AUTHORITY UNDER SECTION 48-805.01, MUST BE DEPOSITED IN THE JOINT POWERS AUTHORITY GENERAL FUND KEPT FOR THE JOINT POWERS AUTHORITY BY THE COUNTY TREASURER.

3. MAY BE DEPOSITED IN THE RELEVANT GOVERNMENTAL FUNDS ESTABLISHED PURSUANT TO SECTION 48-807, SUBSECTION N.

4. MAY BE SPENT BY THAT FIRE DISTRICT TO CARRY OUT ANY OF ITS DUTIES UNDER THIS CHAPTER.

F. FOR THE PURPOSES OF THIS SECTION, "FIRE DISTRICT" MEANS A FIRE DISTRICT ORGANIZED UNDER THIS CHAPTER OR ITS SUCCESSOR ENTITY AND INCLUDES A FIRE DISTRICT THAT
PARTICIPATES IN A JOINT POWERS AUTHORITY UNDER SECTION 48-805.01 OR ITS SUCCESSOR ENTITY.

Sec. 4. Standing and fee shifting; definition
A. This act, if approved by the voters and thereafter challenged in court, shall be defended by the State of Arizona. If the attorney general fails to defend or enforce this act or fails to appeal an adverse judgment against its validity or application, in whole or in part, any resident of this state shall have standing to initiate or intervene in any action or proceeding to enforce or defend this act.
B. The court shall award fees and expenses to any resident who initiates or intervenes in, and prevails on the merits of, any action or proceeding to enforce or defend this act pursuant to subsection A of this section.
C. For the purposes of this section, "fees and expenses" includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, report, test or project found by the court to be necessary to prepare the party's case and reasonable attorney fees.

Sec. 5. Intent
The legislature finds and declares the following:
1. This state is home to one hundred forty-four fire districts that provide fire, emergency medical and associated emergency services to more than one million five hundred thousand residents and tens of millions of travelers on Arizona roadways.
2. Many of these fire districts are located in rural parts of this state, with personnel serving as first responders in the event of emergencies or accidents on large stretches of widely traveled highways.
3. Fire districts in this state are critically underfunded, leading to personnel and equipment shortages and extremely long response times in many areas of this state.
4. To ensure that fire districts can provide prompt and effective emergency services throughout the state, we must solve this funding crisis. This act would do so by imposing an additional sales and use tax increment of one-tenth of one percent, that is just one penny for every $10.00 you spend, for a period of twenty years.

Sec. 6. Severability
If any provision of this act or its application to any person or circumstance is declared invalid by a court of competent jurisdiction, such invalidity does not affect other
provisions or applications of this act that can be given
effect without the invalid provision or application. The
invalidated provision or provisions shall be deemed reformed
to the extent necessary to conform to applicable law and to
give the maximum effect to the intent of this act and, to the
fullest extent possible, the provisions of this act, including
each portion of any section of this act containing any
invalidated provision that is not itself invalid, shall be
construed so as to give effect to the intent thereof.

Sec. 7. Short title

This act may be cited as the “Arizona Fire District
Safety Act”.

2. The Secretary of State shall submit this proposition to the
voters at the next general election as provided by article IV, part 1,
section 1, Constitution of Arizona.