

REFERENCE TITLE: state hospital; procurement; overtime

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2030

Introduced by
Representative Kavanagh

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)

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

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

4 23-391. Overtime pay; workweek

5 A. Subject to availability of appropriated ~~funds~~ MONIES, an
6 employee of this state or any political subdivision ~~servicing~~ WHO SERVES in
7 a position determined by the law enforcement merit system council, the
8 director of the department of administration, the Arizona board of
9 regents, the board of directors for the Arizona state schools for the deaf
10 and the blind or the governing body of a political subdivision, in the
11 discretion of the board or body, to be eligible for overtime compensation
12 AND who is required to work in excess of the person's normal ~~work week~~
13 WORKWEEK shall be compensated for the excess time at the following rates:

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

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

21 B. Notwithstanding subsection A of this section, ~~the~~ THIS state or
22 a political subdivision may provide, by action of the law enforcement
23 merit system council, the Arizona board of regents, the board of directors
24 for the Arizona state schools for the deaf and the blind or the director
25 of the department of administration in the case of ~~the~~ THIS state or of
26 the governing body of the political subdivision, for a ~~work week~~ WORKWEEK
27 of forty hours in less than five days for certain classes of employees
28 employed by ~~the~~ THIS state or the political subdivision.

29 C. For state agencies of the state personnel system, unless
30 otherwise provided by law, the state ~~work week~~ WORKWEEK is the period of
31 seven consecutive days starting Saturday at 12:00 a.m. and ending Friday
32 at 11:59 p.m. Notwithstanding any other law, the director of the
33 department of administration may authorize a workday, for the method and
34 purpose of recording time entries to be included in a workweek and a pay
35 period for employees of this state who are in the correctional officer
36 class series of the state department of corrections OR WHO ARE EMPLOYED AT
37 THE ARIZONA STATE HOSPITAL AND who are regularly scheduled to work a shift
38 that spans two calendar days, defined as the day a majority of the hours
39 are regularly scheduled to be worked. If the regularly scheduled hours
40 are equally split between two calendar days, the workday is defined as the
41 day the shift ends. Scheduled shift start and end times shall not be
42 adjusted to avoid the payment of overtime.

1 Sec. 2. Section 41-2501, Arizona Revised Statutes, is amended to
2 read:

3 41-2501. Applicability

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

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

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

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

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

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

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

39 H. The Arizona health care cost containment system administration
40 is exempt from this chapter for provider contracts pursuant to section
41 36-2904, subsection A and contracts for goods and services, including
42 program contractor contracts pursuant to title 36, chapter 29, articles 2
43 and 3 and contracts with regional behavioral health authorities pursuant
44 to title 36, chapter 34. All other procurement, including contracts for

1 the statewide administrator of the program pursuant to section 36-2903,
2 subsection B, shall be as prescribed by this chapter.

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

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

13 1. All items of construction, reconstruction, rehabilitation,
14 preservation or improvement undertaken on highway infrastructure.

15 2. Engineering services and any other work or activity to carry out
16 engineering services related to highway infrastructure.

17 3. Right-of-way services related to land titles, appraisals, real
18 property acquisitions, relocation services, property management and
19 facility design.

20 4. Any other construction, reconstruction, rehabilitation,
21 preservation or improvement work or activity that is required pursuant to
22 title 28, chapter 20.

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

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

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

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

41 O. Agreements negotiated by legal counsel representing this state
42 in settlement of litigation or threatened litigation are exempt from this
43 chapter.

1 P. This chapter is not applicable to contracts entered into by the
2 department of economic security:
3 1. With a provider licensed or certified by an agency of this state
4 to provide child day care services.
5 2. With area agencies on aging created pursuant to the older
6 Americans act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code
7 sections 3001 through 3058ff).
8 3. For services pursuant to title 36, chapter 29, article 2.
9 4. With an eligible entity as defined by Public Law 105-285,
10 section 673(1)(A)(i), as amended, for designated community services block
11 grant program monies and any other monies given to the eligible entity
12 that accomplishes the purpose of Public Law 105-285, section 672.
13 Q. The Arizona health care cost containment system may not require
14 that persons with whom it contracts follow this chapter for the purposes
15 of subcontracts entered into for the provision of the following:
16 1. Mental health services pursuant to section 36-189, subsection B.
17 2. Services for the seriously mentally ill pursuant to title 36,
18 chapter 5, article 10.
19 3. Drug and alcohol services pursuant to section 36-141.
20 R. The department of health services may not require that persons
21 with whom it contracts follow this chapter for the purpose of subcontracts
22 entered into for the provision of domestic violence services pursuant to
23 title 36, chapter 30, article 1.
24 S. The department of health services is exempt from this chapter
25 for contracts for services of physicians at the Arizona state hospital **AND**
26 **CONTRACTS TO PROVIDE MEDICALLY NECESSARY PHYSICAL HEALTH CARE TO**
27 **INDIVIDUALS UNDER THE CARE OF THE ARIZONA STATE HOSPITAL.**
28 T. Contracts for goods and services approved by the board of
29 trustees of the public safety personnel retirement system are exempt from
30 this chapter.
31 U. The Arizona department of agriculture is exempt from this
32 chapter with respect to contracts for private labor and equipment to
33 effect cotton or cotton stubble plow-up pursuant to rules adopted under
34 title 3, chapter 2, article 1.
35 V. The Arizona state parks board is exempt from this chapter for
36 purchases of guest supplies and items for resale such as food, linens,
37 gift items, sundries, furniture, china, glassware and utensils for the
38 facilities located in the Tonto natural bridge state park.
39 W. The Arizona state parks board is exempt from this chapter for
40 the purchase, production, promotion, distribution and sale of
41 publications, souvenirs and sundry items obtained and produced for resale.
42 X. The Arizona state schools for the deaf and the blind are exempt
43 from this chapter for the purchase of textbooks and when purchasing
44 products through a cooperative that is organized and operates in
45 accordance with state law if such products are not available on a

1 statewide contract and are related to the operation of the schools or are
2 products for which special discounts are offered for educational
3 institutions.

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

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

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

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

16 AA. The department of environmental quality is exempt from this
17 chapter for contracting for procurements relating to the water quality
18 assurance revolving fund program established pursuant to title 49, chapter
19 2, article 5. The department shall engage in a source selection process
20 that is similar to the procedures prescribed by this chapter. The
21 department may contract for remedial actions with a single selection
22 process. The exclusive remedy for disputes or claims relating to
23 contracting pursuant to this subsection is as prescribed by article 9 of
24 this chapter and the rules adopted pursuant to that article. All other
25 procurement by the department shall be as prescribed by this chapter.

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

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

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

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

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

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

42 EE. The cotton research and protection council is exempt from this
43 chapter for procurements.

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

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

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

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

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

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

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

25 1. With a provider of family foster care pursuant to section 8-503.

26 2. With an eligible entity as defined by Public Law 105-285,
27 section 673(1)(A)(i), as amended, for designated community services block
28 grant program monies and any other monies given to the eligible entity
29 that accomplishes the purpose of Public Law 105-285, section 672.

30 3. For services pursuant to title 36, chapter 29, article 1 and as
31 set forth in the approved medicaid state plan.

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