

REFERENCE TITLE: law enforcement; defunding; prohibition

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2756

Introduced by
Representatives Marshall: Gillette, Jones

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY
ADDING SECTION 9-500.49; AMENDING SECTIONS 42-5029 AND 43-206, ARIZONA
REVISED STATUTES; RELATING TO LAW ENFORCEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes,
3 is amended by adding section 9-500.49, to read:

4 9-500.49. Law enforcement; budget decrease; prohibition;
5 applicability; definition

6 A. A CITY OR TOWN MAY NOT REDUCE THE ANNUAL OPERATING BUDGET FOR A
7 LAW ENFORCEMENT AGENCY BY ANY AMOUNT BELOW THE PREVIOUS YEAR'S BUDGET.

8 B. IF A CITY OR TOWN REDUCES THE ANNUAL OPERATING BUDGET FOR A LAW
9 ENFORCEMENT AGENCY, THE CITY OR TOWN SHALL NOTIFY THE STATE TREASURER OF
10 THE REDUCTION. THE STATE TREASURER SHALL THEN WITHHOLD ANY STATE SHARED
11 MONIES FROM THE CITY OR TOWN IN AN AMOUNT EQUAL TO THE AMOUNT OF THE
12 REDUCTION OF THE ANNUAL OPERATING BUDGET FOR THE LAW ENFORCEMENT AGENCY
13 PURSUANT TO SECTION 42-5029, SUBSECTION M AND SECTION 43-206, SUBSECTION
14 G. THE STATE TREASURER SHALL CONTINUE TO WITHHOLD STATE SHARED MONIES
15 UNTIL NOTIFICATION FROM THE CITY OR TOWN THAT THE REDUCTION IN THE LAW
16 ENFORCEMENT AGENCY'S BUDGET HAS BEEN RESTORED.

17 C. THE REQUIREMENTS OF THIS SECTION DO NOT APPLY IF THE CITY OR
18 TOWN DOES NOT HAVE THE MONIES REQUIRED TO CONTINUE THE ANNUAL OPERATING
19 BUDGET FOR A LAW ENFORCEMENT AGENCY AT THE SAME AMOUNT AS THE PREVIOUS
20 YEAR.

21 D. FOR THE PURPOSES OF THIS SECTION, "LAW ENFORCEMENT AGENCY" MEANS
22 A MUNICIPAL POLICE DEPARTMENT.

23 Sec. 2. Section 42-5029, Arizona Revised Statutes, is amended to
24 read:

25 42-5029. Remission and distribution of monies; withholding;
26 definitions

27 A. The department shall deposit, pursuant to sections 35-146 and
28 35-147, all revenues collected under this article and articles 4, 5 and 8
29 of this chapter pursuant to section 42-1116, separately accounting for:

- 30 1. Payments of estimated tax under section 42-5014, subsection D.
- 31 2. Revenues collected pursuant to section 42-5070.

32 3. Revenues collected under this article and article 5 of this
33 chapter from and after June 30, 2000 from sources located on Indian
34 reservations in this state.

35 4. Revenues collected pursuant to section 42-5010, subsection G and
36 section 42-5155, subsection D.

37 5. Revenues collected pursuant to section 42-5010.01 and section
38 42-5155, subsection E.

39 B. The department shall credit payments of estimated tax to an
40 estimated tax clearing account and each month shall transfer all monies in
41 the estimated tax clearing account to a fund designated as the transaction
42 privilege and severance tax clearing account. The department shall credit
43 all other payments to the transaction privilege and severance tax clearing
44 account, separately accounting for the monies designated as distribution
45 base under sections 42-5010, 42-5164 and 42-5205. Each month the

1 department shall report to the state treasurer the amount of monies
2 collected pursuant to this article and articles 4, 5 and 8 of this
3 chapter.

4 C. On notification by the department, the state treasurer shall
5 distribute the monies deposited in the transaction privilege and severance
6 tax clearing account in the manner prescribed by this section and by
7 sections 42-5164 and 42-5205, after deducting warrants drawn against the
8 account pursuant to sections 42-1118 and 42-1254.

9 D. Of the monies designated as distribution base, the department
10 shall:

11 1. Pay twenty-five percent to the various incorporated
12 municipalities in this state in proportion to their population to be used
13 by the municipalities for any municipal purpose.

14 2. Pay 38.08 percent to the counties in this state by averaging the
15 following proportions:

16 (a) The proportion that the population of each county bears to the
17 total state population.

18 (b) The proportion that the distribution base monies collected
19 during the calendar month in each county under this article, section
20 42-5164, subsection B and section 42-5205, subsection B bear to the total
21 distribution base monies collected under this article, section 42-5164,
22 subsection B and section 42-5205, subsection B throughout the state for
23 the calendar month.

24 3. Pay an additional 2.43 percent to the counties in this state as
25 follows:

26 (a) Average the following proportions:

27 (i) The proportion that the assessed valuation used to determine
28 secondary property taxes of each county, after deducting that part of the
29 assessed valuation that is exempt from taxation at the beginning of the
30 month for which the amount is to be paid, bears to the total assessed
31 valuations used to determine secondary property taxes of all the counties
32 after deducting that portion of the assessed valuations that is exempt
33 from taxation at the beginning of the month for which the amount is to be
34 paid. Property of a city or town that is not within or contiguous to the
35 municipal corporate boundaries and from which water is or may be withdrawn
36 or diverted and transported for use on other property is considered to be
37 taxable property in the county for purposes of determining assessed
38 valuation in the county under this item.

39 (ii) The proportion that the distribution base monies collected
40 during the calendar month in each county under this article, section
41 42-5164, subsection B and section 42-5205, subsection B bear to the total
42 distribution base monies collected under this article, section 42-5164,
43 subsection B and section 42-5205, subsection B throughout ~~the~~ THIS state
44 for the calendar month.

1 (b) If the proportion computed under subdivision (a) of this
2 paragraph for any county is greater than the proportion computed under
3 paragraph 2 of this subsection, the department shall compute the
4 difference between the amount distributed to that county under paragraph 2
5 of this subsection and the amount that would have been distributed under
6 paragraph 2 of this subsection using the proportion computed under
7 subdivision (a) of this paragraph and shall pay that difference to the
8 county from the amount available for distribution under this paragraph.
9 Any monies remaining after all payments under this subdivision shall be
10 distributed among the counties according to the proportions computed under
11 paragraph 2 of this subsection.

12 4. After any distributions required by sections 42-5030,
13 42-5030.01, 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making
14 any transfer to the water quality assurance revolving fund as required by
15 section 49-282, subsection B, credit the remainder of the monies
16 designated as distribution base to the state general fund. From this
17 amount the legislature shall annually appropriate to:

18 (a) The department of revenue, sufficient monies to administer and
19 enforce this article and articles 5 and 8 of this chapter.

20 (b) The department of economic security, monies to be used for the
21 purposes stated in title 46, chapter 1.

22 (c) The firearms safety and ranges fund established by section
23 17-273, ~~fifty thousand dollars~~ \$50,000 derived from the taxes collected
24 from the retail classification pursuant to section 42-5061 for the current
25 fiscal year.

26 E. If approved by the qualified electors voting at a statewide
27 general election, all monies collected pursuant to section 42-5010,
28 subsection G and section 42-5155, subsection D shall be distributed each
29 fiscal year pursuant to this subsection. The monies distributed pursuant
30 to this subsection are in addition to any other appropriation, transfer or
31 other allocation of public or private monies from any other source and
32 shall not supplant, replace or cause a reduction in other school district,
33 charter school, university or community college funding sources. The
34 monies shall be distributed as follows:

35 1. If there are outstanding state school facilities revenue bonds
36 pursuant to title 15, chapter 16, article 7, each month one-twelfth of the
37 amount that is necessary to pay the fiscal year's debt service on
38 outstanding state school improvement revenue bonds for the current fiscal
39 year shall be transferred each month to the school improvement revenue
40 bond debt service fund established by section 15-2084. The total amount
41 of bonds for which these monies may be allocated for the payment of debt
42 service shall not exceed a principal amount of eight hundred million
43 dollars exclusive of refunding bonds and other refinancing obligations.

44 2. After any transfer of monies pursuant to paragraph 1 of this
45 subsection, twelve per cent of the remaining monies collected during the

1 preceding month shall be transferred to the technology and research
2 initiative fund established by section 15-1648 to be distributed among the
3 universities for the purpose of investment in technology and
4 research-based initiatives.

5 3. After the transfer of monies pursuant to paragraph 1 of this
6 subsection, three per cent of the remaining monies collected during the
7 preceding month shall be transferred to the workforce development account
8 established in each community college district pursuant to section 15-1472
9 for the purpose of investment in workforce development programs.

10 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of
11 this subsection, one-twelfth of the amount a community college that is
12 owned, operated or chartered by a qualifying Indian tribe on its own
13 Indian reservation would receive pursuant to section 15-1472, subsection
14 D, paragraph 2 if it were a community college district shall be
15 distributed each month to the treasurer or other designated depository of
16 a qualifying Indian tribe. Monies distributed pursuant to this paragraph
17 are for the exclusive purpose of providing support to one or more
18 community colleges owned, operated or chartered by a qualifying Indian
19 tribe and shall be used in a manner consistent with section 15-1472,
20 subsection B. For the purposes of this paragraph, "qualifying Indian
21 tribe" has the same meaning as defined in section 42-5031.01,
22 subsection D.

23 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of
24 this subsection, one-twelfth of the following amounts shall be transferred
25 each month to the department of education for the increased cost of basic
26 state aid under section 15-971 due to added school days and associated
27 teacher salary increases enacted in 2000:

28 (a) In fiscal year 2001-2002, \$15,305,900.

29 (b) In fiscal year 2002-2003, \$31,530,100.

30 (c) In fiscal year 2003-2004, \$48,727,700.

31 (d) In fiscal year 2004-2005, \$66,957,200.

32 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
33 \$86,280,500.

34 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of
35 this subsection, seven million eight hundred thousand dollars is
36 appropriated each fiscal year, to be paid in monthly installments, to the
37 department of education to be used for school safety as provided in
38 section 15-154 and two hundred thousand dollars is appropriated each
39 fiscal year, to be paid in monthly installments to the department of
40 education to be used for the character education matching grant program as
41 provided in section 15-154.01.

42 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of
43 this subsection, no more than seven million dollars may be appropriated by
44 the legislature each fiscal year to the department of education to be used

1 for accountability purposes as described in section 15-241 and title 15,
2 chapter 9, article 8.

3 8. After transferring monies pursuant to paragraphs 1, 2 and 3 of
4 this subsection, one million five hundred thousand dollars is appropriated
5 each fiscal year, to be paid in monthly installments, to the failing
6 schools tutoring fund established by section 15-241.

7 9. After transferring monies pursuant to paragraphs 1, 2 and 3 of
8 this subsection, twenty-five million dollars shall be transferred each
9 fiscal year to the state general fund to reimburse the general fund for
10 the cost of the income tax credit allowed by section 43-1072.01.

11 10. After the payment of monies pursuant to paragraphs 1 through 9
12 of this subsection, the remaining monies collected during the preceding
13 month shall be transferred to the classroom site fund established by
14 section 15-977. The monies shall be allocated as follows in the manner
15 prescribed by section 15-977:

16 (a) Forty per cent shall be allocated for teacher compensation
17 based on performance.

18 (b) Twenty per cent shall be allocated for increases in teacher
19 base compensation and employee related expenses.

20 (c) Forty per cent shall be allocated for maintenance and operation
21 purposes.

22 F. The department shall credit the remainder of the monies in the
23 transaction privilege and severance tax clearing account to the state
24 general fund, subject to any distribution required by section 42-5030.01.

25 G. Notwithstanding subsection D of this section, if a court of
26 competent jurisdiction finally determines that tax monies distributed
27 under this section were illegally collected under this article or articles
28 5 and 8 of this chapter and orders the monies to be refunded to the
29 taxpayer, the department shall compute the amount of such monies that was
30 distributed to each city, town and county under this section. Each
31 city's, town's and county's proportionate share of the costs shall be
32 based on the amount of the original tax payment each municipality and
33 county received. Each month the state treasurer shall reduce the amount
34 otherwise distributable to the city, town and county under this section by
35 ~~one thirty-sixth~~ 1/36 of the total amount to be recovered from the city,
36 town or county until the total amount has been recovered, but the monthly
37 reduction for any city, town or county shall not exceed ten percent of the
38 full monthly distribution to that entity. The reduction shall begin for
39 the first calendar month after the final disposition of the case and shall
40 continue until the total amount, including interest and costs, has been
41 recovered.

42 H. On receiving a certificate of default from the greater Arizona
43 development authority pursuant to section 41-2257 or 41-2258 and to the
44 extent not otherwise expressly prohibited by law, the state treasurer
45 shall withhold from the next succeeding distribution of monies pursuant to

1 this section due to the defaulting political subdivision the amount
 2 specified in the certificate of default and immediately deposit the amount
 3 withheld in the greater Arizona development authority revolving fund. The
 4 state treasurer shall continue to withhold and deposit the monies until
 5 the greater Arizona development authority certifies to the state treasurer
 6 that the default has been cured. In no event may the state treasurer
 7 withhold any amount that the defaulting political subdivision certifies to
 8 the state treasurer and the authority as being necessary to make any
 9 required deposits then due for the payment of principal and interest on
 10 bonds of the political subdivision that were issued before the date of the
 11 loan repayment agreement or bonds and that have been secured by a pledge
 12 of distributions made pursuant to this section.

13 I. Except as provided by sections 42-5033 and 42-5033.01, the
 14 population of a county, city or town as determined by the most recent
 15 United States decennial census plus any revisions to the decennial census
 16 certified by the United States bureau of the census shall be used as the
 17 basis for apportioning monies pursuant to subsection D of this section.

18 J. Except as otherwise provided by this subsection, on notice from
 19 the department of revenue pursuant to section 42-6010, subsection B, the
 20 state treasurer shall withhold from the distribution of monies pursuant to
 21 this section to the affected city or town the amount of the penalty for
 22 business location municipal tax incentives provided by the city or town to
 23 a business entity that locates a retail business facility in the city or
 24 town. The state treasurer shall continue to withhold monies pursuant to
 25 this subsection until the entire amount of the penalty has been withheld.
 26 The state treasurer shall credit any monies withheld pursuant to this
 27 subsection to the state general fund as provided by subsection D,
 28 paragraph 4 of this section. The state treasurer shall not withhold any
 29 amount that the city or town certifies to the department of revenue and
 30 the state treasurer as being necessary to make any required deposits or
 31 payments for debt service on bonds or other long-term obligations of the
 32 city or town that were issued or incurred before the location incentives
 33 provided by the city or town.

34 K. On notice from the auditor general pursuant to section 9-626,
 35 subsection D, the state treasurer shall withhold from the distribution of
 36 monies pursuant to this section to the affected city the amount computed
 37 pursuant to section 9-626, subsection D. The state treasurer shall
 38 continue to withhold monies pursuant to this subsection until the entire
 39 amount specified in the notice has been withheld. The state treasurer
 40 shall credit any monies withheld pursuant to this subsection to the state
 41 general fund as provided by subsection D, paragraph 4 of this section.

42 L. Except as otherwise provided by this subsection, on notice from
 43 the attorney general pursuant to section 41-194.01, subsection B,
 44 paragraph 1 that an ordinance, regulation, order or other official action
 45 adopted or taken by the governing body of a county, city or town violates

1 state law or the Constitution of Arizona, the state treasurer shall
2 withhold the distribution of monies pursuant to this section to the
3 affected county, city or town and shall continue to withhold monies
4 pursuant to this subsection until the attorney general certifies to the
5 state treasurer that the violation has been resolved. The state treasurer
6 shall redistribute the monies withheld pursuant to this subsection among
7 all other counties, cities and towns in proportion to their population as
8 provided by subsection D of this section. The state treasurer shall not
9 withhold any amount that the county, city or town certifies to the
10 attorney general and the state treasurer as being necessary to make any
11 required deposits or payments for debt service on bonds or other long-term
12 obligations of the county, city or town that were issued or incurred
13 before committing the violation.

14 M. EXCEPT AS OTHERWISE PROVIDED BY THIS SUBSECTION, ON NOTICE FROM
15 THE GOVERNING BODY OF A CITY OR TOWN THAT AN OFFICIAL ACTION THAT WAS
16 ADOPTED OR TAKEN BY THE GOVERNING BODY OF THE CITY OR TOWN REDUCES A LAW
17 ENFORCEMENT AGENCY'S BUDGET FROM THE PREVIOUS YEAR'S BUDGET PURSUANT TO
18 SECTION 9-500.49, THE STATE TREASURER SHALL WITHHOLD THE DISTRIBUTION OF
19 MONIES PURSUANT TO THIS SECTION IN AN AMOUNT EQUAL TO THE REDUCTION TO THE
20 LAW ENFORCEMENT AGENCY'S BUDGET TO THE AFFECTED CITY OR TOWN AND SHALL
21 CONTINUE TO WITHHOLD MONIES PURSUANT TO THIS SUBSECTION UNTIL THE
22 GOVERNING BODY OF THE CITY OR TOWN NOTIFIES THE STATE TREASURER THAT THE
23 REDUCTION HAS BEEN RESTORED. THE STATE TREASURER SHALL NOT WITHHOLD ANY
24 AMOUNT THAT THE CITY OR TOWN CERTIFIES AS BEING NECESSARY TO MAKE ANY
25 REQUIRED DEPOSITS OR PAYMENTS FOR DEBT SERVICE ON BONDS OR OTHER LONG-TERM
26 OBLIGATIONS OF THE CITY OR TOWN THAT WERE ISSUED OR INCURRED BEFORE THE
27 REDUCTION IN THE LAW ENFORCEMENT AGENCY'S BUDGET. THIS SUBSECTION DOES
28 NOT APPLY TO A REDUCTION IN BUDGET PURSUANT TO SECTION 9-500.49,
29 SUBSECTION C.

30 ~~M.~~ N. For the purposes of this section: ~~;~~

31 1. "Community college district":

32 (a) Means a community college district that is established pursuant
33 to sections 15-1402 and 15-1403 and that is a political subdivision of
34 this state. ~~and,~~

35 (b) Unless otherwise specified, includes a community college
36 tuition financing district established pursuant to section 15-1409.

37 2. "LAW ENFORCEMENT AGENCY" MEANS A MUNICIPAL POLICE DEPARTMENT.

38 Sec. 3. Section 43-206, Arizona Revised Statutes, is amended to
39 read:

40 43-206. Urban revenue sharing fund; allocation; distribution;
41 withholding; definition

42 A. The urban revenue sharing fund is established. Through fiscal
43 year 2022-2023, the fund consists of an amount equal to fifteen percent of
44 the net proceeds of the state income taxes for the fiscal year two years
45 preceding the current fiscal year. Beginning in fiscal year 2023-2024,

1 the fund consists of an amount equal to eighteen percent of the net
 2 proceeds of the state income taxes for the fiscal year two years preceding
 3 the current fiscal year. The fund shall be distributed to incorporated
 4 cities and towns as provided in this section, except that a city or town
 5 shall receive at least an amount equal to what a city or town with a
 6 population of fifteen hundred or more persons would receive. The transfer
 7 of net proceeds prescribed by section 49-282, subsection B does not affect
 8 the calculation of net proceeds prescribed by this subsection.

9 B. Each city or town shall share in the urban revenue sharing fund
 10 in the proportion that the population of each bears to the population of
 11 all. Except as provided by sections 42-5033 and 42-5033.01, the population
 12 of a city or town as determined by the most recent United States decennial
 13 census plus any revisions to the decennial census certified by the United
 14 States CENSUS bureau ~~of the census~~ shall be used as the basis for
 15 apportioning monies pursuant to this subsection.

16 C. The treasurer, on instruction from the department, shall
 17 transmit, not later than the tenth day of each month, to each city or town
 18 an amount equal to one-twelfth of that city's or town's total entitlement
 19 for the current fiscal year from the urban revenue sharing fund as
 20 determined by the department.

21 D. A newly incorporated city or town shall share in the urban
 22 revenue sharing fund beginning the first month of the first full fiscal
 23 year following incorporation.

24 E. On receipt of a certificate of default from the greater Arizona
 25 development authority pursuant to section 41-2257 or 41-2258, the state
 26 treasurer, to the extent not otherwise expressly prohibited by law, shall
 27 withhold from the next succeeding distribution of monies pursuant to this
 28 section due to the city or town the amount specified in the certificate of
 29 default and immediately deposit the amount withheld in the greater Arizona
 30 development authority revolving fund. The state treasurer shall continue
 31 to withhold and deposit the monies until the authority certifies to the
 32 state treasurer that the default has been cured. The state treasurer may
 33 not withhold any amount that is necessary, as certified by the defaulting
 34 political subdivision to the state treasurer and the authority, to make
 35 any required deposits then due for the payment of principal and interest
 36 on bonds of the political subdivision that were issued before the date of
 37 the loan repayment agreement or bonds and that have been secured by a
 38 pledge of distributions made pursuant to this section.

39 F. Except as otherwise provided by this subsection, on notice from
 40 the attorney general pursuant to section 41-194.01, subsection B,
 41 paragraph 1 that an ordinance, regulation, order or other official action
 42 adopted or taken by the governing body of a city or town violates state
 43 law or the Constitution of Arizona, the state treasurer shall withhold the
 44 distribution of monies pursuant to this section to the affected city or
 45 town and shall continue to withhold monies pursuant to this subsection

1 until the attorney general certifies to the state treasurer that the
2 violation has been resolved. The state treasurer shall redistribute the
3 monies withheld pursuant to this subsection among all other cities and
4 towns in proportion to their population as provided by subsection B of
5 this section. The state treasurer shall not withhold any amount that the
6 city or town certifies to the attorney general and the state treasurer as
7 being necessary to make any required deposits or payments for debt service
8 on bonds or other long-term obligations of the city or town that were
9 issued or incurred before committing the violation.

10 G. EXCEPT AS OTHERWISE PROVIDED BY THIS SUBSECTION, ON NOTICE FROM
11 THE GOVERNING BODY OF A CITY OR TOWN THAT AN OFFICIAL ACTION THAT WAS
12 ADOPTED OR TAKEN BY THE GOVERNING BODY OF A CITY OR TOWN REDUCES A LAW
13 ENFORCEMENT AGENCY'S BUDGET FROM THE PREVIOUS YEAR'S BUDGET PURSUANT TO
14 SECTION 9-500.49, THE STATE TREASURER SHALL WITHHOLD THE DISTRIBUTION OF
15 MONIES PURSUANT TO THIS SECTION IN AN AMOUNT EQUAL TO THE REDUCTION TO THE
16 LAW ENFORCEMENT AGENCY'S BUDGET TO THE AFFECTED CITY OR TOWN AND SHALL
17 CONTINUE TO WITHHOLD MONIES PURSUANT TO THIS SUBSECTION UNTIL THE
18 GOVERNING BODY OF THE CITY OR TOWN NOTIFIES THE STATE TREASURER THAT THE
19 REDUCTION HAS BEEN RESTORED. THE STATE TREASURER SHALL NOT WITHHOLD ANY
20 AMOUNT THAT THE CITY OR TOWN CERTIFIES AS BEING NECESSARY TO MAKE ANY
21 REQUIRED DEPOSITS OR PAYMENTS FOR DEBT SERVICE ON BONDS OR OTHER LONG-TERM
22 OBLIGATIONS OF THE CITY OR TOWN THAT WERE ISSUED OR INCURRED BEFORE THE
23 REDUCTION IN THE LAW ENFORCEMENT AGENCY'S BUDGET. THIS SUBSECTION DOES
24 NOT APPLY TO A REDUCTION IN BUDGET PURSUANT TO SECTION 9-500.49,
25 SUBSECTION C.

26 H. FOR THE PURPOSES OF THIS SECTION, "LAW ENFORCEMENT AGENCY" MEANS
27 A MUNICIPAL POLICE DEPARTMENT.