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State of Arizona
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 1996

FILED

Jane Dee Hull
 Secretary of State

CHAPTER 16
SENATE BILL 1067

AN ACT

AMENDING SECTIONS 28-108, 28-1821 AND 41-2752, ARIZONA REVISED STATUTES;
 RELATING TO POWERS OF THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION.

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

2 Section 1. Section 28-108, Arizona Revised Statutes, is amended to
 3 read:

4 28-108. Powers and duties

5 A. The director shall:

6 1. Supervise and administer the overall activities of the department
 7 and its divisions and employees.

8 2. Appoint assistant directors for each of the divisions which
 9 assistant directors shall be exempt from the state personnel system.

10 3. Prescribe such rules as he deems necessary for the collection of
 11 taxes and license fees.

12 4. Provide for the assembly and distribution of information to the
 13 public concerning the department activities.

14 5. Prescribe such rules as he deems necessary for public safety and
 15 convenience.

16 6. Prescribe rules for the expenditure of all money in the state
 17 highway fund.

18 7. Prescribe standard board and road signs, or other devices, and
 19 provide a uniform system of marking and signaling on state routes and state
 20 highways, which shall correlate with and so far as possible conform to the
 21 system as approved by the American association of state highway officials,
 22 and regulate the use of advertising signboards and road signs on state roads
 23 or state highways.

1 8. Prescribe rules for closing state highways under construction or
2 repair.

3 9. Receive, allocate, control and disperse all funds designated for
4 state mass transit programs by federal or state law or rule.

5 10. Pass upon projects for construction in cooperation with the United
6 States, and negotiate and enter into contracts on behalf of the state with
7 the United States for the cooperative construction and maintenance of federal
8 aid mass transit systems within the state.

9 11. Enter into agreements on behalf of the state with counties, cities,
10 towns, mass transit districts, or other political ~~subdivision~~ SUBDIVISIONS
11 for the improvement or maintenance of mass transit systems, or for the joint
12 improvement or maintenance thereof, and enter into contracts for the
13 construction of state mass transit systems.

14 12. Prescribe rules for the application for and the expenditure of all
15 mass transit funds.

16 13. Exercise such other powers and duties as are necessary to fully
17 carry out the policies, activities and duties of the department.

18 14. Delegate such functions, duties or powers as he deems necessary to
19 carry out the efficient operation of the department.

20 15. Contract for both the operation of state owned airports and for the
21 purpose of securing air search and rescue services.

22 16. Plan, build and develop, in conjunction with local authorities,
23 airports, airport terminals and other related navigational facilities.

24 17. Operate and maintain the Grand Canyon national park airport located
25 in the Kaibab national forest, Coconino county.

26 18. Enter into agreements on behalf of the state with counties, cities,
27 towns or rural districts for the improvement or maintenance of state routes,
28 or for the joint improvement or maintenance thereof.

29 19. Exercise complete and exclusive operational control and
30 jurisdiction over the use of state highways and routes and prescribe such
31 rules regarding such use as he deems necessary to prevent the abuse and
32 unauthorized use of such highways and routes.

33 20. Coordinate the design, right-of-way purchase and construction of
34 controlled-access highways which are either state routes or state highways
35 and related grade separations of controlled-access highways and the design,
36 right-of-way purchase, construction, standard and reduced clearance grade
37 separation, extension and widening of arterial streets and highways under
38 chapter 9 of this title and assist counties and municipalities in the
39 counties in the development of their regional transportation plans under
40 chapter 9 of this title to ensure that the streets and highways within each
41 county form a regional system.

42 21. On or before December 1 present an annual report to the speaker of
43 the house of representatives and the president of the senate documenting the
44 expenditures of monies under chapter 9 of this title during the previous

1 fiscal year relating to the design, right-of-way purchase or construction of
2 controlled-access highways which are accepted in the state highway system as
3 state routes or state highways or related grade separations of
4 controlled-access highways which are included in the regional transportation
5 plans of the counties.

6 22. Enter into agreements by direct contract with nonpublic entities
7 for services or jointly exercise any powers common to the contracting parties
8 that he deems necessary and in the best interests of the department subject
9 to the limitations of section 41-2544.

10 B. The director may provide technical transportation planning
11 expertise to local governments when requested, coordinate local government
12 transportation planning with regional and state transportation planning and
13 guide local transportation planning to assure compliance with federal
14 requirements. Such planning authority shall not, however, preempt planning
15 responsibilities and decisions of local governments.

16 C. If the governor declares a state of emergency the director may, as
17 necessary, contract and do all things necessary to provide emergency
18 transportation services for the residents in the affected areas whether such
19 emergency transportation is by streets, by rail or by air.

20 D. The director, on determination that it is in the state's best
21 interest, may authorize payment for necessary relocation costs in advance of
22 work being performed if an existing facility owned by the United States must
23 be relocated or adjusted due to construction, modification or improvement of
24 a state highway. Each advance payment shall be based on an estimate of cost
25 of the proposed relocation or adjustment prepared by the federal government
26 and acceptable to the director. The final compensation shall be based on the
27 actual agreed cost.

28 E. THE DIRECTOR MAY ENTER INTO AGREEMENTS ON BEHALF OF THIS STATE WITH
29 PRIVATE ENTITIES FOR THE DISTRIBUTION, LICENSING, LEASING OR SALE OF
30 COMPUTER SOFTWARE DEVELOPED BY THE DEPARTMENT, EXCEPT FOR COMPUTER SOFTWARE
31 RELATING TO THE MOTOR CARRIER TAX IMPOSED PURSUANT TO CHAPTER 9, ARTICLE 6
32 OF THIS TITLE. THE PRIVATE ENTITIES WHO ENTER INTO AN AGREEMENT WITH THE
33 DEPARTMENT PURSUANT TO THIS SUBSECTION CAN ONLY DISTRIBUTE, LICENSE, LEASE
34 OR SELL THE COMPUTER SOFTWARE TO GOVERNMENTAL AGENCIES LOCATED OUTSIDE OF
35 THIS STATE AND TO PRIVATE ENTITIES.

36 F. THE DEPARTMENT MAY DISTRIBUTE, LICENSE, LEASE OR SELL COMPUTER
37 SOFTWARE DEVELOPED BY THE DEPARTMENT TO PRIVATE ENTITIES, OTHER AGENCIES OR
38 POLITICAL SUBDIVISIONS OF THIS STATE AND THIRD PARTIES LICENSED PURSUANT TO
39 CHAPTER 4, ARTICLE 2, CHAPTER 8, ARTICLE 9 AND CHAPTER 9, ARTICLE 8 OF THIS
40 TITLE. IF THE DEPARTMENT DISTRIBUTES, LICENSES, LEASES OR SELLS COMPUTER
41 SOFTWARE DEVELOPED BY THE DEPARTMENT TO OTHER AGENCIES OR POLITICAL
42 SUBDIVISIONS OF THIS STATE, THE DEPARTMENT MAY ENTER INTO A SITE LICENSE
43 CONTRACT WITH THE AGENCY OR POLITICAL SUBDIVISION OF THIS STATE. OTHER
44 AGENCIES AND POLITICAL SUBDIVISIONS OF THIS STATE AND LICENSED THIRD PARTIES

1 THAT ACQUIRE COMPUTER SOFTWARE FROM THE DEPARTMENT PURSUANT TO THIS
2 SUBSECTION SHALL NOT DISTRIBUTE, LICENSE, LEASE OR SELL THE COMPUTER SOFTWARE
3 TO ANY OTHER PERSON.

4 G. THE DEPARTMENT MAY ENTER INTO AGREEMENTS WITH OTHER AGENCIES AND
5 POLITICAL SUBDIVISIONS IN THIS STATE FOR THE MAINTENANCE AND SUPPORT OF
6 COMPUTER SOFTWARE ACQUIRED BY AN AGENCY OR POLITICAL SUBDIVISION PURSUANT TO
7 SUBSECTION F OF THIS SECTION.

8 H. THE DIRECTOR SHALL TRANSMIT MONIES GENERATED PURSUANT TO
9 SUBSECTIONS E, F AND G OF THIS SECTION TO THE STATE TREASURER FOR DEPOSIT IN
10 THE STATE HIGHWAY FUND ESTABLISHED PURSUANT TO SECTION 28-1821.

11 Sec. 2. Section 28-1821, Arizona Revised Statutes, is amended to read:
12 28-1821. State highway fund; sources

13 A state highway fund is established which consists of:

14 1. Monies distributed from the Arizona highway user revenue fund under
15 chapter 9, article 5 of this title.

16 2. Monies appropriated thereto by the legislature.

17 3. Monies received from donations for the construction, improvement
18 or maintenance of state highways or bridges, which shall be credited to a
19 special account and expended only for the purpose indicated by the donor.

20 4. Monies received from counties, including proceeds from bond issues,
21 under cooperative agreements. Such monies shall be deposited by the
22 treasurer to the credit of the fund in a special account upon delivery to him
23 of a concise written agreement between the department and the county stating
24 the purposes for which the money is surrendered by the county, and the monies
25 shall be expended only as stated in the agreement.

26 5. Monies received from the United States by virtue of an act of
27 Congress to provide aid in the construction of rural post roads, but monies
28 received on projects for which the funds necessary to be provided by the
29 state are wholly derived from sources mentioned in paragraphs 2 and 3 of this
30 section shall be allotted by the department and deposited by the treasurer
31 into the special account within the fund created for each project. Upon
32 completion of the project and the satisfaction and discharge in full of all
33 obligations of whatever kind created on account thereof, the unexpended
34 balance in the special account for the project shall, upon request of the
35 department, be transferred by the treasurer into the highway fund and may,
36 together with any further federal aid thereafter received on account of the
37 project, be expended under the general provisions of this title.

38 6. Monies coming into the custody of an officer or agent of the state
39 from whatever source to be used for the construction, improvement or
40 maintenance of state highways or bridges.

41 7. Monies deposited in the general fund arising from the disposal of
42 state personal property belonging to the department.

43 8. Receipts from the sale or disposal of any or all other property
44 held by the department and purchased with state highway funds.

1 9. MONIES GENERATED PURSUANT TO SECTION 28-108, SUBSECTIONS E, F
2 AND G.

3 Sec. 3. Section 41-2752, Arizona Revised Statutes, is amended to read:
4 41-2752. State competition with private enterprise prohibited;
5 exceptions

6 A. A state agency shall not engage in the manufacturing, processing,
7 sale, offering for sale, rental, leasing, delivery, dispensing, distributing
8 or advertising of goods or services to the public which are also offered by
9 private enterprise unless specifically authorized by law other than
10 administrative law and executive orders.

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

15 C. Except as otherwise provided in section 41-2754, subsection H, the
16 restrictions on activities which compete with private enterprise contained
17 in this section do not apply to:

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

20 2. Correctional industries established and operated by the state
21 department of corrections providing the prices charged for products sold by
22 the correctional industries are not less than the actual cost of producing
23 and marketing the product plus a reasonable allowance for overhead and
24 administrative costs.

25 3. The Arizona office of tourism.

26 4. The Arizona highways magazine, operated by the department of
27 transportation.

28 5. Printing and distributing information to the public if the agency
29 is otherwise authorized to do so, and printing or copying public records or
30 other material relating to the public agency's public business and recovering
31 through fees and charges the costs of such printing, copying and
32 distribution.

33 6. The department of public safety.

34 7. The construction, maintenance and operation of state transportation
35 facilities.

36 8. THE DEVELOPMENT, DISTRIBUTION, MAINTENANCE, SUPPORT, LICENSING,
37 LEASING OR SALE OF COMPUTER SOFTWARE BY THE DEPARTMENT OF TRANSPORTATION.

38 D. The restrictions on activities which compete with private
39 enterprise contained in subsection A of this section do not apply to
40 community colleges and universities under the jurisdiction of a state
41 governing board.

APPROVED BY THE GOVERNOR MARCH 21, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 22, 1996