House Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 2

HOUSE BILL 2456

AN ACT

AMENDING SECTIONS 28-304, 28-503, 28-6301, 28-6302, 28-6303, 28-6306, 28-6308, 28-6351, 28-6352, 28-6355, 28-6357, 28-7561, 48-5121 AND 48-5162, ARIZONA REVISED STATUTES; AMENDING SECTION 28-6304, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2003, CHAPTER 217, SECTION 1; AMENDING SECTION 28-6305, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2003, CHAPTER 217, SECTION 2; AMENDING TITLE 28, CHAPTER 17, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-6313; AMENDING SECTION 28-6353, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2003, CHAPTER 217, SECTION 4; AMENDING SECTION 28-6354, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2003, CHAPTER 217, SECTION 5; AMENDING SECTION 28-6356, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2003, CHAPTER 217, SECTION 6; AMENDING TITLE 42, CHAPTER 6, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-6105; AMENDING SECTION 48-5103, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2003, CHAPTER 217, SECTION 7; AMENDING TITLE 48, CHAPTER 29, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 48-5107; REPEALING LAWS 1997, CHAPTER 1, SECTION 346; CHANGING THE HEADING OF TITLE 28, CHAPTER 17, ARTICLE 2, ARIZONA REVISED STATUTES, TO "REGIONAL TRANSPORTATION PLAN"; RELATING TO REGIONAL TRANSPORTATION FINANCE; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 28-304, Arizona Revised Statutes, is amended to read:

28-304. Powers and duties of the board; transportation facilities

A. The board shall:

1. Develop and adopt a statewide transportation policy statement. The policy statement shall be adopted as described in section 28-306.

2. Adopt a long-range statewide transportation plan. The plan shall be adopted as described in section 28-307.

3. Adopt uniform transportation planning practices and performance based planning processes for use by the department. The practices and processes shall be developed as described in sections 28-502 and 28-503.

4. Adopt transportation system performance measures and factors and data collection standards to be used by the department. The performance measures, factors and standards shall be developed as described in sections 28-504 and 28-505.

~~B. The board shall initially adopt the processes, practices, procedures, measures, factors and standards prescribed in subsection A, paragraphs 3 and 4 of this section on or before July 1, 2003.~~

~~C.~~ B. With respect to highways, the board shall:

1. Establish a complete system of state highway routes.

2. Determine which state highway routes or portions of the routes are accepted into the state highway system and which state highway routes to improve.

3. Establish, open, relocate or alter a portion of a state route or state highway.

4. Vacate or abandon a portion of a state route or state highway as prescribed in section 28-7209.

5. Sell board funding obligations to the state treasurer as provided in section 28-7678.

~~D.~~ C. The board shall:

1. Establish policies to guide the development or modification of the five year transportation facilities construction program that are consistent with the principles of performance based planning developed pursuant to article 7 of this chapter. ~~,~~ THE PERCENTAGE OF DEPARTMENT DISCRETIONARY MONIES ALLOCATED TO THE REGION IN THE REGIONAL TRANSPORTATION PLAN APPROVED PURSUANT TO CHAPTER 17, ARTICLE 1 OF THIS TITLE SHALL NOT INCREASE OR DECREASE UNLESS THE BOARD, IN COOPERATION WITH THE REGIONAL PLANNING AGENCY, AGREES TO CHANGE THE PERCENTAGE OF THE DISCRETIONARY MONIES.

2. Award all construction contracts for transportation facilities. ~~and~~

3. Monitor the status of these construction projects.

~~E.~~ D. Consistent with the board's responsibilities, the board shall:

1. ~~Approve, disapprove or modify~~ CONSIDER the citizens transportation oversight committee's recommendations on the five year construction program

~~and the life cycle management program~~ for the regional ~~freeway system as defined in section 28-6351~~ TRANSPORTATION PLAN PURSUANT TO CHAPTER 17 OF THIS TITLE.

2. Respond to any complaint and approve, disapprove or modify recommendations regarding a complaint forwarded to it by the citizens transportation oversight committee within ninety days after the citizens transportation oversight committee forwards a complaint to the board.

~~F.~~ E. The board shall determine priority program planning with respect to transportation facilities using the performance based methods developed pursuant to article 7 of this chapter.

~~G.~~ F. With respect to transportation facilities other than highways, the board shall establish, open, relocate, alter, vacate or abandon all or portions of the facilities.

~~H.~~ G. With respect to aeronautics, the board shall perform the functions prescribed in chapter 25 of this title.

~~I.~~ H. The board shall not spend any monies, adopt any rules or implement any policies or programs to convert signs to the metric system or to require the use of the metric system with respect to designing or preparing plans, specifications, estimates or other documents for any highway project before the conversion or use is required by federal law, except that the board may:

1. Spend monies and require the use of the metric system with respect to designing or preparing plans, specifications, estimates or other documents for a highway project that is awarded before October 1, 1997 and that is exclusively metric from its inception.

2. Prepare for conversion to and use of the metric system not more than six months before the conversion or use is required by federal law.

Sec. 2. Section 28-503, Arizona Revised Statutes, is amended to read:

28-503. Performance based planning and programming

A. The division shall develop for submission to the board performance based planning and programming processes for use by the department.

B. The division shall consult with local, regional and tribal transportation agencies before developing the processes. The division shall encourage and assist tribal transportation agencies that want to adopt these performance based planning and programming processes.

C. The performance based planning and programming processes shall provide a means of evaluating the current performance of the plan developed pursuant to section 28-506 and the five year transportation facilities construction program developed pursuant to section 28-6951 and for evaluating and prioritizing proposed changes to the plan and program.

D. IN COMPLIANCE WITH POLICIES ESTABLISHED PURSUANT TO SECTION 28-304, the department and the board shall use the performance based planning and programming processes in determining future allocations of state and federal financial resources among the department's major program categories.

E. The performance based planning and programming processes shall be used to monitor and evaluate the performance outcomes of transportation planning and programming decisions made by the department and the board.

F. The performance based processes shall:

1. Be periodically reviewed and updated as conditions and system requirements change.

2. Include, at a minimum, all of the following:

(a) Uniform transportation system performance measures established pursuant to section 28-504 and the routine collection and reporting of adopted performance measures.

(b) Uniform transportation system performance factors for evaluating existing and potential projects and services established pursuant to section 28-505.

(c) Weights to be applied to the performance factors identified pursuant to subdivision (b) in evaluating and prioritizing proposed changes to the system. These performance factor weights shall consider and recognize local and regional differences in transportation system performance expectations and shall be used in all state transportation planning.

(d) Systematic forecasts of the anticipated performance outcomes of proposed expenditures.

(e) Systematic periodic reporting and certification of system performance.

3. Integrate planning, programming and reporting processes to ensure a sustainable and reliable highway system.

Sec. 3. Section 28-6301, Arizona Revised Statutes, is amended to read:

28-6301. Definitions

In this article, unless the context otherwise requires:

1. "Bond related expenses" means:

(a) Printing, publication or advertising expenses with respect to the sale and issuance of any bonds.

(b) Fees, expenses and costs of registrars, paying agents and transfer agents retained by the board.

(c) Fees, expenses and costs of attorneys, accountants, actuaries, feasibility consultants, computer programmers or other experts employed to aid in the sale and issuance of the bonds.

(d) Other costs, fees and expenses incurred or reasonably related to the issuance, sale and administration of the bonds.

2. "Bond related obligation" means any agreement or contractual relationship between the board and any bank, trust company, insurance company, surety bonding company, pension fund or other financial institution providing increased credit on, or security for, the bonds or liquidity for secondary market transactions.

3. "Bonds" means any bonds that are payable from the regional area road fund as provided in chapter 21, article 2 of this title.

4. "CONSTRUCTION INTEREST" MEANS A COMPANY WHOSE PRIMARY FUNCTION CONSISTS OF BUILDING FREEWAYS, HIGHWAYS OR MAJOR ARTERIAL STREETS.

~~4.~~ 5. "Controlled access highway" has the same meaning prescribed in section 28-601.

6. "FREIGHT INTEREST" MEANS A COMPANY THAT DERIVES A SUBSTANTIAL PORTION OF ITS REVENUE FROM TRANSPORTING GOODS.

7. "MAJOR AMENDMENT" MEANS EITHER:

(a) THE ADDITION OR DELETION OF A FREEWAY, ROUTE ON THE STATE HIGHWAY SYSTEM OR A FIXED GUIDEWAY TRANSIT SYSTEM.

(b) THE ADDITION OR DELETION OF A PORTION OF A FREEWAY, ROUTE ON THE STATE HIGHWAY SYSTEM OR A FIXED GUIDEWAY TRANSIT SYSTEM THAT EITHER EXCEEDS ONE MILE IN LENGTH OR EXCEEDS AN ESTIMATED COST OF FORTY MILLION DOLLARS AS PROVIDED IN THE REGIONAL TRANSPORTATION PLAN.

(c) THE MODIFICATION OF A TRANSPORTATION PROJECT IN A MANNER THAT ELIMINATES A CONNECTION BETWEEN FREEWAY FACILITIES OR FIXED GUIDEWAY FACILITIES.

~~5.~~ 8. "Population" means the population determined in the most recent United States decennial census or the most recent special census as provided in section 28-6532 and revisions to the decennial or special census certified by the United States bureau of the census.

9. "PUBLIC TRANSPORTATION" MEANS MOVING PASSENGERS BY MEANS OF A CONVEYANCE OPERATED BY OR FOR A POLITICAL SUBDIVISION OF THIS STATE INCLUDING DIAL-A-RIDE TRANSPORTATION, SPECIAL NEEDS TRANSPORTATION AND VAN POOL TRANSPORTATION BUT EXCLUDING SCHOOL BUSES.

10. "PUBLIC TRANSPORTATION SYSTEM" MEANS THE COMBINATION OF INDIVIDUALS, VEHICLES, PHYSICAL FACILITIES, STRUCTURES AND EQUIPMENT THAT TOGETHER PROVIDE, OR FACILITATE PROVIDING, PUBLIC TRANSPORTATION, INCLUDING BUSES, HIGH OCCUPANCY VEHICLE ROADWAY LANES AND RAMPS, BUS PULL-OUT LANES, BUS AND LIGHT RAIL WAITING FACILITIES, PARK AND RIDE PARKING LOTS, INTELLIGENT TRANSPORTATION SYSTEMS AND RIDESHARING PROMOTION.

11. "REGIONWIDE BUSINESS" MEANS A COMPANY THAT PROVIDES GOODS OR SERVICES THROUGHOUT THE COUNTY.

12. "TRANSIT INTEREST" MEANS AN INDIVIDUAL WITH DEMONSTRATED INTEREST AND EXPERIENCE WITH PUBLIC TRANSPORTATION.

Sec. 4. Section 28-6302, Arizona Revised Statutes, is amended to read:

28-6302. Transportation excise tax distribution; counties with one million two hundred thousand or more persons; regional area road fund

A. In a county with a population of one million two hundred thousand or more persons, the officer collecting transportation excise tax monies pursuant to section 42-6104 OR 42-6105 that are designated for deposit in the regional area road fund shall immediately transfer the monies to the state treasurer. The state treasurer shall deposit the monies in a fund designated for the county as the regional area road fund. The state treasurer shall hold monies in the regional area road fund as a trustee for the county.

B. Except as provided in this article, the county in which the transportation excise taxes are levied has the beneficial interest in the regional area road fund. This state has no beneficial interest in the regional area road fund except as an obligee for reimbursement of state monies that are advanced as salaries or expenses by this state or the department and that are to be repaid by the regional area road fund.

C. Monies and investments within the regional area road fund may be used and spent only as provided in this chapter. An appropriation of any nature shall not be required before the expenditure of monies from the regional area road fund. Monies in the bond proceeds account or construction account of a regional area road fund may be obligated for payment in future years for the purpose of right-of-way acquisition subject to the limitations prescribed in sections 28-7001, ~~and~~ 28-7002 AND 42-6105, SUBSECTION E, PARAGRAPHS 1 AND 2. The state treasurer shall make payments from the regional area road fund by check, and a warrant or voucher is not necessary. Subject to the powers granted to the board in chapter 21, article 2 of this title, the director shall administer monies deposited in the regional area road fund.

Sec. 5. Section 28-6303, Arizona Revised Statutes, is amended to read:

28-6303. Regional area road fund; separate accounts

A. The regional area road fund is divided into three separate accounts designated as the bond account, the construction account and the bond proceeds account.

B. The state treasurer shall:

1. Account separately for each account.

2. Make transfers between accounts only as provided in this article or chapter 21, article 2 of this title.

3. Before any bonds are issued, deposit transportation excise tax revenues transferred to the state treasurer in the construction account. These revenues shall be expended as provided in this article.

4. After any bonds are issued, deposit transportation excise tax revenues transferred to the state treasurer in the bond account first until the bond account contains monies sufficient to meet all principal, interest or redemption requirements for the current period as required by any resolution of the board pertaining to the issuance of bonds.

5. After all current period requirements for all of the bonds are deposited in the bond account, deposit the balance of transportation excise tax revenues transferred to the state treasurer for the current period in the construction account.

C. The state treasurer may:

1. Invest monies in any account of the regional area road fund in any securities or obligations authorized by title 35, chapter 2, article 2.

2. For the purpose of investments, commingle monies within the regional area road fund with state monies if all interest earned on the monies in the regional area road fund of a county is credited to the

respective account of the regional area road fund in which the investment was made.

D. THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR THE USES OF TRANSPORTATION EXCISE TAX REVENUES DEPOSITED INTO THE BOND ACCOUNT AND THE CONSTRUCTION ACCOUNT IN ORDER TO IDENTIFY HOW THE TRANSPORTATION EXCISE TAX REVENUES ARE USED PURSUANT TO SECTION 42-6105, SUBSECTION E, PARAGRAPHS 1 AND 2, FOR:

1. FREEWAYS AND OTHER ROUTES IN THE STATE HIGHWAY SYSTEM.

2. MAJOR ARTERIAL STREETS AND INTERSECTION IMPROVEMENTS.

Sec. 6. Section 28-6304, Arizona Revised Statutes, as amended by Laws 2003, chapter 217, section 1, is amended to read:

28-6304. Bond account; expenditures

A. The state treasurer shall:

1. Hold monies in the bond account in trust for the owners of the bonds.

2. Pay monies in the bond account to the county, to paying agents or to the owners of the bonds directly in accordance with a resolution of the board authorizing the issuance of the bonds.

B. Monies in the bond account may be used:

1. To pay bond related expenses or recurring expenses pertaining to administration and payment of the bonds.

2. For funding reserves for the payment of the bonds.

3. For payment of fees, charges and expenses incurred with respect to bond related obligations.

C. Monies in the bond proceeds account may be obligated or spent as directed by the board for the:

1. Payment of all bond related expenses.

2. Establishment and funding of reserve monies or to pay interest on bonds during the expected period of construction.

3. Payment of fees, charges and expenses incurred with respect to bond related obligations.

4. Design, right-of-way purchase or construction RELATED TO NEW, OR IMPROVEMENTS TO, FREEWAYS AND OTHER ROUTES IN THE STATE HIGHWAY SYSTEM ~~of controlled access highways~~ that are included in the regional transportation plan of the county and that are accepted into the state highway system ~~either as a state route or as a state highway or related grade separations of controlled access highways that are included in the regional transportation plan of the county~~.

5. Design, right-of-way purchase or construction ~~of~~ RELATED TO NEW, OR IMPROVEMENTS TO, major arterial streets and ~~highways~~ INTERSECTIONS that are included in the regional transportation plan of the county. For the purposes of this paragraph, "major arterial" means an interconnected thoroughfare whose primary function is to link areas in the region and to distribute traffic to and from controlled access highways, generally of

regionwide significance and of varying capacity depending on the travel demand for the specific direction and adjacent land uses.

6. Design and construction of interim roadways within the adopted corridors of the regional transportation plan of the county pursuant to section 28-6309.

7. Right-of-way costs associated with the construction of interim roadways pursuant to section 28-6310.

8. Payment of principal and interest on the bonds.

Sec. 7. Section 28-6305, Arizona Revised Statutes, as amended by Laws 2003, chapter 217, section 2, is amended to read:

28-6305. Construction account; expenditures; construction contracts

A. Except as provided in subsection B of this section, monies in the construction account of the regional area road fund shall be spent, pledged or accumulated for the purposes provided in section 28-6304, subsection C, paragraphs 4 and 5, including payment of interest on and repayment of bonds and obligations issued pursuant to chapter 21 of this title if the proceeds of the bonds or obligations are used for the purposes provided in section 28-6304, subsection C, ~~paragraph~~ PARAGRAPHS 4 AND 5.

B. Of the monies deposited in the construction account of the regional area road fund under section 28-6303, the state treasurer shall:

1. In each fiscal year, divide and equally distribute five million dollars to:

(a) The public transportation fund established in that county under section 48-5103.

(b) The regional planning agency in that county for planning and administration of the regional transportation plan approved pursuant to section 28-6308. The state treasurer shall distribute monies under this subdivision through the department on or before June 30 of each year.

2. Beginning with fiscal year 1987-1988, adjust the monies distributed under paragraph 1 by the annual percentage change for the previous calendar year in the GDP price deflator as defined in section 41-563.

C. The monies distributed under subsection B of this section shall only be spent for planning and ~~administration of~~ ADMINISTERING the regional transportation plan approved pursuant to section 28-6308 AND THE COSTS INCURRED BY THE AUDITOR GENERAL RELATING TO PERFORMANCE AUDITS UNDER SECTION 28-6313. Before the beginning of each fiscal year, the respective governing bodies of the members of the regional planning agency and the board of directors of the regional public transportation authority shall explicitly identify and approve in the annual budgets the monies to be spent under subsection B of this section for the purposes allowed under this subsection. These expenditures are subject to the annual audit of the governing bodies' financial transactions.

D. The director may enter into construction contracts or contracts incidental to construction contracts payable from monies in either the bond

proceeds account or the construction account or both the bond proceeds and construction accounts.

Sec. 8. Section 28-6306, Arizona Revised Statutes, is amended to read:

28-6306. Account expenditures; elections

A. Except as provided in subsection B, monies from any account in the regional area road fund shall not be spent to promote or advocate a position, alternative or outcome of an election, to influence public opinion or to pay or contract for consultants or advisors to influence public opinion with respect to an election regarding taxes or other sources of revenue for the fund or regarding the regional transportation plan.

B. Monies from any account in the regional area road fund may be spent:

1. As authorized by this article to determine public opinion before the election is called.

2. ~~To print, publish and distribute publicity pamphlets as required by law containing arguments favoring and opposing issues presented in the election~~ FOR COSTS SPECIFICALLY INCURRED WITH RESPECT TO A BALLOT ISSUE RELATING TO A COUNTY TRANSPORTATION EXCISE TAX IN A COUNTY WITH A POPULATION OF ONE MILLION TWO HUNDRED THOUSAND OR MORE PERSONS.

Sec. 9. Section 28-6308, Arizona Revised Statutes, is amended to read:

28-6308. Regional planning agency transportation policy committee; regional transportation plan; plan review process

A. The regional planning agency in the county shall establish a transportation policy committee consisting of TWENTY-THREE MEMBERS AS FOLLOWS:

1. SEVENTEEN members of the regional planning agency, ~~and representatives of the private sector.~~ INCLUDING THE CHAIRPERSON OF THE CITIZENS TRANSPORTATION OVERSIGHT COMMITTEE, ONE MEMBER OF THE STATE TRANSPORTATION BOARD WHO REPRESENTS THE COUNTY, ONE MEMBER OF THE COUNTY BOARD OF SUPERVISORS AND ONE MEMBER REPRESENTING INDIAN COMMUNITIES IN THE COUNTY.

2. SIX MEMBERS WHO REPRESENT REGIONWIDE BUSINESS INTERESTS, ONE OF WHOM MUST REPRESENT TRANSIT INTERESTS, ONE OF WHOM MUST REPRESENT FREIGHT INTERESTS AND ONE OF WHOM MUST REPRESENT CONSTRUCTION INTERESTS. THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL EACH APPOINT THREE MEMBERS TO THE COMMITTEE PURSUANT TO THIS PARAGRAPH. MEMBERS WHO ARE APPOINTED PURSUANT TO THIS PARAGRAPH SERVE SIX-YEAR TERMS. THE CHAIRMAN OF THE REGIONAL PLANNING AGENCY MAY SUBMIT NAMES TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES FOR CONSIDERATION FOR APPOINTMENT TO THE TRANSPORTATION POLICY COMMITTEE.

B. Through the regional planning agency, the transportation policy committee shall:

1. By a majority vote of the members, recommend approval of a twenty year comprehensive, performance based, multimodal and coordinated regional

transportation plan in the county, including transportation corridors by priority and a schedule indicating the dates that construction will commence for projects contained in the plan.

2. Develop the plan in cooperation with the regional public transportation authority in the county and the department of transportation and in consultation with the county board of supervisors, Indian communities and cities and towns in the county.

3. Submit the plan for review by the regional public transportation authority in the county, the state board of transportation, the county board of supervisors, Indian communities and cities and towns in the county at the alternatives stage of the plan and the final draft stage of the plan. After reviewing the plan, the regional public transportation authority in the county, the county board of supervisors and the state board of transportation, by majority vote of the members of each entity within thirty days after receiving the plan, shall submit a written recommendation to the transportation policy committee that the plan be approved, modified or disapproved. Within thirty days after receiving the plan, Indian communities and cities and towns in the county may submit a written recommendation to the transportation policy committee that the plan be approved, modified or disapproved.

4. Consider plan modifications proposed by any of the entities as prescribed in paragraph 3 of this subsection.

5. By majority vote, approve, disapprove or further modify each proposed plan modification.

6. Provide a written response to the regional public transportation authority, the state board of transportation, the county board of supervisors and the entity that submitted the proposed modification within thirty days after the vote on the proposed modification explaining the affirmation, rejection or further modification of each proposed modification.

7. Recommend the plan to the regional planning agency for approval for an air quality conformity analysis ~~no later than September 30, 2003~~.

C. The regional transportation plan:

1. SHALL INCLUDE THE FOLLOWING TRANSPORTATION MODE CLASSIFICATIONS WITH A REVENUE ALLOCATION TO EACH CLASSIFICATION CONSISTENT WITH SECTION 42-6105, SUBSECTION E:

(a) FREEWAYS AND OTHER ROUTES IN THE STATE HIGHWAY SYSTEM.

(b) MAJOR ARTERIAL STREETS AND INTERSECTION IMPROVEMENTS.

(c) PUBLIC TRANSPORTATION SYSTEMS.

~~1.~~ 2. Shall ~~also~~ provide a suggested construction schedule for the transportation projects contained in the plan.

~~2.~~ 3. May be annually updated to introduce new controlled access highways, related grade separations and transportation projects or to modify the existing plan.

~~3.~~ 4. Shall be developed to meet federal air quality requirements established for the region in which it is located.

D. TRANSPORTATION EXCISE TAX REVENUES THAT ARE DISTRIBUTED PURSUANT TO SECTION 42-6105, SUBSECTION E SHALL NOT BE REDISTRIBUTED OR USED FOR OTHER TRANSPORTATION MODES. EXCEPT AS PROVIDED BY SECTION 28-6353, SUBSECTIONS D, E AND F, TRANSPORTATION EXCISE TAX REVENUES THAT ARE DEDICATED IN THE PLAN TO A SPECIFIC PROJECT OR TRANSPORTATION SYSTEM MAY ONLY BE REDISTRIBUTED TO OR OTHERWISE USED FOR ANOTHER PROJECT WITHIN THE SAME TRANSPORTATION MODE IF APPROVED BY A MAJORITY VOTE OF THE TRANSPORTATION POLICY COMMITTEE.

Sec. 10. Title 28, chapter 17, article 1, Arizona Revised Statutes, is amended by adding section 28-6313, to read:

28-6313. Performance audits of proposed transportation projects and systems

A. BEGINNING IN 2010 AND EVERY FIFTH YEAR THEREAFTER, THE AUDITOR GENERAL SHALL CONTRACT WITH A NATIONALLY RECOGNIZED INDEPENDENT AUDITOR WITH EXPERTISE IN EVALUATING MULTIMODAL TRANSPORTATION SYSTEMS AND IN REGIONAL TRANSPORTATION PLANNING TO CONDUCT A PERFORMANCE AUDIT, AS DEFINED IN SECTION 41-1278, OF THE REGIONAL TRANSPORTATION PLAN AND PROJECTS SCHEDULED FOR FUNDING DURING THE NEXT FIVE YEARS.

B. WITH RESPECT TO LIGHT RAIL SYSTEMS, THE AUDIT SHALL CONSIDER THE CRITERIA USED BY THE FEDERAL TRANSIT ADMINISTRATION PURSUANT TO 49 UNITED STATES CODE SECTION 5309(e)(1)(B) AND THE INTERRELATIONSHIP AMONG THE CRITERIA TO PROVIDE FEDERAL FUNDING FOR LIGHT RAIL SYSTEMS. FOR LIGHT RAIL SYSTEMS, THE AUDIT SHALL ALSO CONSIDER:

1. SERVICE LEVELS.
2. CAPITAL COSTS.
3. OPERATION AND MAINTENANCE COSTS.
4. TRANSIT RIDERSHIP.
5. FAREBOX REVENUES.

C. THE AUDIT SHALL:

1. EXAMINE THE REGIONAL TRANSPORTATION PLAN AND PROJECTS SCHEDULED FOR FUNDING WITHIN EACH TRANSPORTATION MODE BASED ON THE PERFORMANCE FACTORS ESTABLISHED IN SECTION 28-505, SUBSECTION A, IN THE CONTEXT OF THE TRANSPORTATION SYSTEM.

2. REVIEW PAST EXPENDITURES OF THE REGIONAL TRANSPORTATION PLAN AND EXAMINE THE PERFORMANCE OF THE SYSTEM IN RELIEVING CONGESTION AND IMPROVING MOBILITY.

3. MAKE RECOMMENDATIONS REGARDING WHETHER FURTHER IMPLEMENTATION OF A PROJECT OR TRANSPORTATION SYSTEM IS WARRANTED, WARRANTED WITH MODIFICATIONS OR NOT WARRANTED.

D. THE AUDITOR GENERAL OR THE AUDITORS CONTRACTED TO CONDUCT THE AUDIT SHALL PERIODICALLY UPDATE THE TRANSPORTATION POLICY COMMITTEE REGARDING THE PROGRESS OF THE AUDIT.

E. WITHIN FORTY-FIVE DAYS AFTER THE RELEASE OF THE AUDIT, THE REGIONAL PUBLIC TRANSPORTATION AUTHORITY, THE CITIZENS TRANSPORTATION OVERSIGHT COMMITTEE, THE STATE TRANSPORTATION BOARD AND THE COUNTY BOARD OF SUPERVISORS, BY A MAJORITY VOTE OF EACH ENTITY, SHALL SUBMIT WRITTEN

RECOMMENDATIONS TO THE TRANSPORTATION POLICY COMMITTEE THAT THE FINDINGS ARE AGREED TO OR DISAGREED WITH AND THE RECOMMENDATIONS SHOULD BE IMPLEMENTED, IMPLEMENTED WITH MODIFICATION OR NOT BE IMPLEMENTED.

F. WITHIN FORTY-FIVE DAYS AFTER THE AUDIT'S RELEASE, THE REGIONAL PLANNING AGENCY SHALL HOLD A PUBLIC HEARING ON THE AUDIT FINDINGS AND RECOMMENDATIONS.

G. THE AUDITOR GENERAL SHALL DISTRIBUTE COPIES OF THE AUDIT TO:

1. THE REGIONAL PLANNING AGENCY.
2. THE TRANSPORTATION POLICY COMMITTEE.
3. THE CITIZENS TRANSPORTATION OVERSIGHT COMMITTEE.
4. THE REGIONAL PUBLIC TRANSPORTATION AUTHORITY IN THE COUNTY.
5. THE COUNTY BOARD OF SUPERVISORS.
6. THE STATE TRANSPORTATION BOARD.
7. THE GOVERNOR, SECRETARY OF STATE, PRESIDENT OF THE SENATE AND SPEAKER OF THE HOUSE OF REPRESENTATIVES.
8. THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS.
9. ANY OTHER PERSON WHO REQUESTS A COPY PURSUANT TO TITLE 39, ARTICLE 2.

H. THE STATE TRANSPORTATION BOARD, REGIONAL PLANNING AGENCY, REGIONAL PUBLIC TRANSPORTATION AUTHORITY AND COUNTY BOARD OF SUPERVISORS SHALL COOPERATE WITH AND SUBMIT TO THE AUDITOR GENERAL AND THE AUDITORS CONTRACTED TO CONDUCT THE AUDIT INFORMATION NECESSARY TO CONDUCT THE AUDITS UNDER THIS SECTION.

I. THE COST INCURRED BY THE AUDITOR GENERAL IN CONTRACTING WITH INDEPENDENT AUDITORS FOR CONDUCTING PERFORMANCE AUDITS UNDER SUBSECTION A OF THIS SECTION SHALL BE PAID FROM REVENUES OF THE COUNTY TRANSPORTATION EXCISE TAX UNDER SECTION 42-6105. WHEN DUE, THE PAYMENTS HAVE PRIORITY OVER ANY OTHER DISTRIBUTION AUTHORIZED BY SECTION 42-6105. THE AUDITOR GENERAL SHALL DEPOSIT THE PAYMENTS IN THE AUDIT SERVICES REVOLVING FUND ESTABLISHED BY SECTION 41-1279.06.

Sec. 11. Heading change

The heading of title 28, chapter 17, article 2, Arizona Revised Statutes, is changed from "CONTROLLED ACCESS HIGHWAY SYSTEM" to "REGIONAL TRANSPORTATION PLAN".

Sec. 12. Section 28-6351, Arizona Revised Statutes, is amended to read:

28-6351. Definitions

In this article, unless the context otherwise requires:

1. "Controlled access highway" has the same meaning prescribed in section 28-601.

2. "Enhancement" means an addition that exceeds generally accepted engineering or design standards for the specific type of facility.

~~3. "Regional freeway system" means the controlled access highways and related grade separations of controlled access highways that are eligible for regional area road fund monies pursuant to article 1 of this chapter.~~

3. "REGIONAL TRANSPORTATION PLAN" MEANS THE TWENTY YEAR COMPREHENSIVE, PERFORMANCE BASED, MULTIMODAL AND COORDINATED REGIONAL TRANSPORTATION PLAN APPROVED FOR THE COUNTY PURSUANT TO SECTION 28-6308, AS AMENDED OR OTHERWISE MODIFIED.

Sec. 13. Section 28-6352, Arizona Revised Statutes, is amended to read:

28-6352. Regional highway and street system; budget process

A. The department shall adopt a budget process that ensures the estimated cost of the ~~regional freeway system, including corridors and corridor segments,~~ TRANSPORTATION MODE CLASSIFICATION DESCRIBED IN SECTION 28-6308, SUBSECTION C, PARAGRAPH 1, SUBDIVISION (a) does not exceed the total amount of revenues estimated to be available for ~~the regional freeway system~~ THAT MODE CLASSIFICATION.

B. THE REGIONAL PLANNING AGENCY SHALL ADOPT A BUDGET PROCESS THAT ENSURES THE ESTIMATED COST OF THE TRANSPORTATION MODE CLASSIFICATION DESCRIBED IN SECTION 28-6308, SUBSECTION C, PARAGRAPH 1, SUBDIVISION (b) DOES NOT EXCEED THE TOTAL AMOUNT OF REVENUES ESTIMATED TO BE AVAILABLE FOR THAT MODE CLASSIFICATION.

Sec. 14. Section 28-6353, Arizona Revised Statutes, as amended by Laws 2003, chapter 217, section 4, is amended to read:

28-6353. Regional transportation plan and project enhancements and changes

A. The regional planning agency in the county shall approve any change in the regional transportation plan and the projects funded ~~pursuant to section 42-6104~~ IN THE REGIONAL TRANSPORTATION PLAN that affect the planning agency's transportation improvement program, including project priorities.

B. Requests for changes to transportation projects funded ~~pursuant to section 42-6104~~ IN THE REGIONAL TRANSPORTATION PLAN that would materially increase costs shall be submitted to the regional planning agency for approval and submitted by the regional planning agency to the board for approval.

C. If a local authority requests an enhancement to a transportation project funded pursuant to ~~section 42-6104~~ THE REGIONAL TRANSPORTATION PLAN, the local authority shall pay all costs associated with the enhancement.

D. THE PROCESS PRESCRIBED IN SUBSECTION E OF THIS SECTION IS REQUIRED IF:

1. AN AUDIT FINDING PURSUANT TO SECTION 28-6313 RECOMMENDS THAT A PROJECT OR SYSTEM IN THE REGIONAL TRANSPORTATION PLAN IS NOT WARRANTED OR REQUIRES A MODIFICATION THAT IS A MAJOR AMENDMENT AS DEFINED IN SECTION 28-6301.

2. THE TRANSPORTATION POLICY COMMITTEE RECOMMENDS TO THE REGIONAL PLANNING AGENCY A MODIFICATION OF THE REGIONAL TRANSPORTATION PLAN THAT IS A MAJOR AMENDMENT AS DEFINED IN SECTION 28-6301.

E. A MAJOR AMENDMENT REQUIRES THE FOLLOWING:

1. CONSIDERATION BY THE TRANSPORTATION POLICY COMMITTEE OF ALTERNATIVES IN THE SAME MODAL CATEGORY THAT WILL RELIEVE CONGESTION AND IMPROVE MOBILITY IN THE SAME GENERAL CORRIDOR ADDRESSED BY THE ORIGINALLY PLANNED PROJECT OR SYSTEM.

2. IF A REASONABLE OPTION IS IDENTIFIED AS AN ALTERNATIVE FOR THE ORIGINALLY PLANNED PROJECT OR SYSTEM, THE TRANSPORTATION POLICY COMMITTEE SHALL SUBMIT THE PROPOSED AMENDMENT FOR REVIEW BY THE REGIONAL PUBLIC TRANSPORTATION AUTHORITY IN THE COUNTY, THE STATE BOARD OF TRANSPORTATION, THE COUNTY BOARD OF SUPERVISORS, INDIAN COMMUNITIES, CITIES AND TOWNS IN THE COUNTY AND THE CITIZENS TRANSPORTATION OVERSIGHT COMMITTEE. AFTER REVIEWING THE PROPOSED AMENDMENT, THE BOARD OF DIRECTORS OF THE REGIONAL PUBLIC TRANSPORTATION AUTHORITY, THE STATE BOARD OF TRANSPORTATION AND THE COUNTY BOARD OF SUPERVISORS, BY A MAJORITY VOTE OF THE MEMBERS OF EACH BOARD WITHIN THIRTY DAYS AFTER RECEIVING THE PROPOSED AMENDMENT, SHALL SUBMIT A WRITTEN RECOMMENDATION TO THE TRANSPORTATION POLICY COMMITTEE THAT THE PROPOSED AMENDMENT BE APPROVED, MODIFIED OR DISAPPROVED. WITHIN THIRTY DAYS AFTER RECEIVING THE AMENDMENT, THE CITIZENS TRANSPORTATION OVERSIGHT COMMITTEE AND THE INDIAN COMMUNITIES, CITIES AND TOWNS MAY ALSO SUBMIT WRITTEN RECOMMENDATIONS TO THE TRANSPORTATION POLICY COMMITTEE THAT THE PROPOSED AMENDMENT BE APPROVED, MODIFIED OR DISAPPROVED.

3. IF NO REASONABLE OPTION FOR AN ALTERNATIVE TO THE ORIGINALLY PLANNED PROJECT OR SYSTEM IS IDENTIFIED, THE TRANSPORTATION POLICY COMMITTEE SHALL SUBMIT AN AMENDMENT TO DELETE THE ORIGINAL PROJECT FOR REVIEW BY THE REGIONAL PUBLIC TRANSPORTATION AUTHORITY, THE STATE BOARD OF TRANSPORTATION, THE COUNTY BOARD OF SUPERVISORS, INDIAN COMMUNITIES, CITIES AND TOWNS IN THE COUNTY AND THE CITIZENS TRANSPORTATION OVERSIGHT COMMITTEE. AFTER REVIEWING THE PROPOSED AMENDMENT THE BOARD OF DIRECTORS OF THE REGIONAL PUBLIC TRANSPORTATION AUTHORITY, THE STATE BOARD OF TRANSPORTATION AND THE COUNTY BOARD OF SUPERVISORS, BY A MAJORITY VOTE OF THE MEMBERS OF EACH BOARD WITHIN THIRTY DAYS AFTER RECEIVING THE PROPOSED AMENDMENT, SHALL SUBMIT A WRITTEN RECOMMENDATION TO THE TRANSPORTATION POLICY COMMITTEE THAT THE PROPOSED AMENDMENT BE APPROVED, MODIFIED OR DISAPPROVED. WITHIN THIRTY DAYS AFTER RECEIVING THE PROPOSED AMENDMENT, THE CITIZENS TRANSPORTATION OVERSIGHT COMMITTEE AND INDIAN COMMUNITIES, CITIES AND TOWNS IN THE COUNTY MAY ALSO SUBMIT WRITTEN RECOMMENDATIONS TO THE TRANSPORTATION POLICY COMMITTEE THAT THE PROPOSED AMENDMENT BE APPROVED, MODIFIED OR DISAPPROVED.

4. THE TRANSPORTATION POLICY COMMITTEE MUST CONSIDER ANY WRITTEN RECOMMENDATIONS SUBMITTED BY ANY OF THE REVIEWING ENTITIES AS PRESCRIBED BY PARAGRAPH 2 OR 3 OF THIS SUBSECTION.

5. THE TRANSPORTATION POLICY COMMITTEE SHALL RECOMMEND APPROVAL, DISAPPROVAL OR MODIFICATION OF THE PROPOSED AMENDMENT TO THE REGIONAL PLANNING AGENCY FOR CONSIDERATION.

F. THE AFFIRMATIVE VOTE OF SEVENTEEN MEMBERS OF THE TRANSPORTATION POLICY COMMITTEE IS REQUIRED TO APPROVE AND PROCEED WITH EITHER OF THE FOLLOWING:

1. RECOMMENDATION OF A MAJOR AMENDMENT TO THE REGIONAL PLANNING AGENCY THAT FAILS TO RECEIVE APPROVAL OF EITHER THE REGIONAL PUBLIC TRANSPORTATION AUTHORITY IN THE COUNTY, THE STATE BOARD OF TRANSPORTATION OR THE COUNTY BOARD OF SUPERVISORS AS PRESCRIBED IN THIS SECTION.

2. A TRANSPORTATION PROJECT OR SYSTEM THAT IS FOUND TO BE UNWARRANTED BY AN AUDIT AS PRESCRIBED IN THIS SECTION.

Sec. 15. Section 28-6354, Arizona Revised Statutes, as amended by Laws 2003, chapter 217, section 5, is amended to read:

28-6354. Annual report; hearing; priority criteria

A. The regional planning agency shall issue an annual report on the status of the projects funded pursuant to section 42-6104 OR 42-6105 and shall hold a public hearing in the county within thirty days after the report is issued. The report and the hearing shall address the following topics:

1. The status of the projects.

2. Proposed changes to the regional transportation plan.

3. Proposed changes in corridor and corridor segment priorities and to other projects funded pursuant to section 42-6104 OR 42-6105.

4. Project financing and project options.

5. The criteria used to establish priorities as required by subsection B of this section.

B. The regional planning agency shall develop criteria to establish the priority of corridors and corridor segments and other transportation projects, including:

1. The extent of local public and private funding participation.

2. The social and community impact.

3. The establishment of a complete transportation system for the region as rapidly as is practicable.

4. The construction of projects to serve regional transportation needs.

5. The construction of segments that provide connectivity with other elements of the regional transportation system.

6. Other relevant criteria developed by the regional planning agency.

Sec. 16. Section 28-6355, Arizona Revised Statutes, is amended to read:

28-6355. Documentation; regional area road fund reimbursement

A. The department shall document the acquisition of rights-of-way for the regional ~~freeway system~~ FREEWAYS AND OTHER ROUTES ON THE STATE HIGHWAY SYSTEM RELATED TO THE REGIONAL TRANSPORTATION PLAN, including any negotiations and agreements for acquisition of rights-of-way.

B. The department shall reimburse the regional area road fund established by section 28-6302 or the highway user revenue fund established by section 28-6533 if the department uses property for administrative

purposes that is acquired for the regional ~~freeway system~~ FREEWAYS AND OTHER ROUTES ON THE STATE HIGHWAY SYSTEM RELATED TO THE REGIONAL TRANSPORTATION PLAN with monies from the regional area road fund or monies distributed from the highway user revenue fund pursuant to section 28-6538, subsection B, paragraph 1. The department shall determine the amount of the reimbursement according to the fair rental value of the property based on an independent appraisal. The department shall allocate and reimburse the amount to the fund from which the monies were taken.

Sec. 17. Section 28-6356, Arizona Revised Statutes, as amended by Laws 2003, chapter 217, section 6, is amended to read:

28-6356. Citizens transportation oversight committee

A. A citizens transportation oversight committee is established in counties with a population of one million two hundred thousand or more persons and that have levied a transportation excise tax pursuant to section 42-6104 OR 42-6105.

B. The citizens transportation oversight committee consists of the following members who are not elected officials of or employed by this state or any county, city or town in this state:

1. One member who serves as chairperson of the committee and who is appointed by the governor pursuant to section 38-211.

2. One member who represents each supervisorial district in the county and who is appointed by the board of supervisors. The board of supervisors shall consult with the mayors of each city and town located within each supervisorial district regarding appointments. At all times during the term, each member appointed pursuant to this paragraph shall legally reside in a different city or town located in the county. Members appointed pursuant to this paragraph shall have expertise in transportation systems or issues.

3. One member who resides in the county and who is appointed by the governor pursuant to section 38-211.

C. Members shall be appointed for terms of three years.

D. The chairperson shall also serve as:

1. A nonvoting member of the departmental committee established by section 28-6951 only for issues relating to the regional ~~freeway system~~ TRANSPORTATION PLAN. The chairperson may appoint a designee to attend meetings of the departmental committee.

2. A voting member of the governing body of the regional planning agency in the county for all matters relating to the regional ~~freeway system~~ TRANSPORTATION PLAN.

3. A VOTING MEMBER OF THE TRANSPORTATION POLICY COMMITTEE OF THE REGIONAL PLANNING AGENCY UNDER SECTION 28-6308 IN THE COUNTY FOR ALL MATTERS RELATING TO THE REGIONAL TRANSPORTATION PLAN.

E. The citizens transportation oversight committee shall meet at least once each calendar quarter.

F. The citizens transportation oversight committee shall:

1. Review and advise the board, the governor, the director, the governing body of the regional planning agency and the board of directors of the regional public transportation authority on matters relating to all projects funded pursuant to section 42-6104 AND IN THE REGIONAL TRANSPORTATION PLAN.

2. Review and make recommendations regarding any proposed major ~~revision~~ AMENDMENT of the regional transportation plan by the governing body of the regional planning agency PURSUANT TO SECTION 28-6353. ~~For the purposes of this paragraph, "major revision" means an addition or deletion of a transportation project funded pursuant to section 42-6104.~~

3. Annually review and comment on the criteria developed pursuant to section 28-6354, subsection B.

4. Hold public hearings and issue public reports as it deems appropriate.

5. Annually contract with an independent auditor who is a certified public accountant to conduct a financial compliance audit of all expenditures from the regional area road fund and the public transportation fund and receive the auditor's report. The department shall reimburse the committee for the cost of this audit from the highway user revenue fund pursuant to section 28-6538, subsection B, paragraph 1.

6. In consultation with the auditor general, set parameters for the performance audit prescribed in section 41-1279.03, subsection A, paragraph 6 in the county, review the results of the auditor general's performance audit and make recommendations to the regional planning agency, the regional public transportation authority, the department, the speaker of the house of representatives, the president of the senate and the governor.

G. The committee may:

1. Receive written complaints from citizens regarding adverse impacts of any transportation project funded ~~pursuant to section 42-6104~~ IN THE REGIONAL TRANSPORTATION PLAN, determine which complaints warrant further review and make recommendations to the state transportation board regarding the complaints.

2. Receive written complaints from citizens relating to the regional planning agency's responsibilities as prescribed in this chapter, determine which complaints warrant further review and make recommendations to the regional planning agency regarding the complaints.

3. Make recommendations to the regional planning agency, the regional public transportation authority and the state transportation board regarding TRANSPORTATION projects AND PUBLIC TRANSPORTATION SYSTEMS funded ~~pursuant to section 42-6104~~ in the regional transportation plan, the transportation improvement program, the department's five year construction program and the life cycle management program ~~for the regional freeway system~~.

H. Failure by the citizens transportation oversight committee to act does not bar the governing body of the regional planning agency or the board

of directors of the regional public transportation authority from taking action.

I. Members of the committee are not eligible to receive compensation or reimbursement for expenses.

Sec. 18. Section 28-6357, Arizona Revised Statutes, is amended to read:

28-6357. Special assistant for the regional transportation plan

A. The director shall appoint a special assistant for the regional ~~freeway system~~ TRANSPORTATION PLAN to provide coordination among the department of transportation, the regional planning agency and the local entities that are members of the regional planning agency on the regional ~~freeway system~~ TRANSPORTATION PLAN.

B. The duties of the special assistant for the regional ~~freeway system~~ TRANSPORTATION PLAN include:

1. Life cycle management for the funding and programming of the regional ~~freeway system~~ TRANSPORTATION PLAN, including ombudsman services and oversight of gathering, analyzing, reporting, forecasting, coordinating, monitoring and executing information and programs related to the regional ~~freeway system~~ TRANSPORTATION PLAN.

2. Administrative support for the activities of the citizens transportation oversight committee established pursuant to section 28-6356. The special assistant ~~for the regional freeway system~~ is eligible to receive reimbursement for expenses incurred by providing administrative support for the activities of the citizens transportation oversight committee from monies distributed from the highway user revenue fund pursuant to section 28-6538, subsection B, paragraph 1.

3. Preparation and dissemination of reports on the status and the progress of the regional ~~freeway system~~ TRANSPORTATION PLAN to the citizens transportation oversight committee, the governor, the speaker of the house of representatives, the president of the senate, the regional planning agency and other interested governmental agencies and citizens.

4. Coordination of public hearings of the citizens oversight committee on the regional ~~freeway system~~ TRANSPORTATION PLAN.

C. The special assistant for the regional ~~freeway system~~ TRANSPORTATION PLAN is eligible to receive compensation pursuant to section 38-611. Notwithstanding the limitations imposed in section 28-6305, the compensation OF THE SPECIAL ASSISTANT shall be paid from the regional area road fund.

Sec. 19. Section 28-7561, Arizona Revised Statutes, is amended to read:

28-7561. Bonds payable from transportation excise taxes

A. The board is designated as the body having sole and exclusive power to authorize and issue bonds or incur long-term obligations payable in whole or in part from monies in a regional area road fund established by chapter 17, article 1 of this title. The board may act for and on behalf of a county

that has a regional area road fund established by chapter 17, article 1 of this title to:

1. Issue negotiable bonds payable solely from monies paid into the bond account of the respective regional area road fund in a principal amount that in the opinion of the board is necessary to provide sufficient monies for any lawful purpose for which the respective regional area road fund monies may be spent, to establish reserves to secure the bonds and to provide for the payment of all other expenditures of the board that are incidental, necessary and convenient to carry out these purposes.

2. Issue refunding bonds if the board deems refunding expedient, INCLUDING REFUNDING ANY BONDS AND OTHER OBLIGATIONS ISSUED PURSUANT TO CHAPTER 21 OF THIS TITLE IF THE PROCEEDS OF THE BONDS AND OTHER OBLIGATIONS TO BE REFUNDED ARE USED FOR THE PURPOSES PROVIDED IN SECTION 28-6304, SUBSECTION C, PARAGRAPH 4 OR 5, AS APPLICABLE, WHETHER THE BONDS AND OTHER OBLIGATIONS TO BE REFUNDED HAVE OR HAVE NOT MATURED. PROCEEDS OF THE REFUNDING BONDS MAY BE USED TO PAY PRINCIPAL, INTEREST OR REDEMPTION PREMIUMS ON THE REFUNDED BONDS AND OTHER OBLIGATIONS.

3. Refund any bonds issued by the board and payable from regional area road fund income as authorized in this article by the issuance of refunding bonds, whether the bonds to be refunded have or have not matured. Proceeds of refunding bonds may be used to pay principal, interest or redemption premiums on refunded bonds.

4. Issue bonds partly to refund bonds ~~them~~ AND OTHER OBLIGATIONS DESCRIBED IN PARAGRAPHS 2 AND 3 OF THIS SUBSECTION outstanding and partly for any other purpose consistent with this article.

B. Regardless of whether or not the bonds are of such form or character as to be negotiable instruments under the terms of the uniform commercial code, the bonds are fully negotiable within the meaning and for all purposes of the uniform commercial code.

Sec. 20. Title 42, chapter 6, article 3, Arizona Revised Statutes, is amended by adding section 42-6105, to read:

42-6105. County transportation excise tax; counties with population of one million two hundred thousand or more persons

A. IF APPROVED BY THE QUALIFIED ELECTORS VOTING AT A COUNTYWIDE ELECTION, A COUNTY WITH A POPULATION OF ONE MILLION TWO HUNDRED THOUSAND OR MORE PERSONS SHALL LEVY AND THE DEPARTMENT SHALL COLLECT A TAX AS PROVIDED BY THIS SECTION, IN ADDITION TO ALL OTHER TAXES.

B. THE TAX SHALL BE LEVIED AND COLLECTED:

1. AT A RATE OF NOT MORE THAN TEN PER CENT OF THE TRANSACTION PRIVILEGE TAX RATE PRESCRIBED BY SECTION 42-5010, SUBSECTION A APPLYING, AS OF JANUARY 1, 1990:

(a) TO EACH PERSON ENGAGING OR CONTINUING IN THE COUNTY IN A BUSINESS TAXED UNDER CHAPTER 5, ARTICLE 1 OF THIS TITLE.

(b) EXCEPT THAT FOR THE PURPOSES OF THIS PARAGRAPH WITH RESPECT TO THE PRIME CONTRACTING CLASSIFICATION UNDER SECTION 42-5075, THE GROSS PROCEEDS OF SALES OR GROSS INCOME THAT IS DEDUCTIBLE PURSUANT TO SECTION 42-5075, SUBSECTION B, PARAGRAPH 8 OR PURSUANT TO SECTION 42-5061, SUBSECTION A, PARAGRAPH 27 FOR SALES TO A CONTRACTOR WHO IS EXEMPT UNDER SECTION 42-5075, SUBSECTION B, PARAGRAPH 8 SHALL BE INCLUDED IN THE TAX BASE FOR PURPOSES OF THIS PARAGRAPH.

2. IN THE CASE OF PERSONS SUBJECT TO THE TAX IMPOSED UNDER SECTION 42-5352, SUBSECTION A, AT A RATE OF NOT MORE THAN .305 CENTS PER GALLON OF JET FUEL SOLD.

3. ON THE USE OR CONSUMPTION OF ELECTRICITY OR NATURAL GAS BY RETAIL ELECTRIC OR NATURAL GAS CUSTOMERS IN THE COUNTY WHO ARE SUBJECT TO USE TAX UNDER SECTION 42-5155, AT A RATE EQUAL TO THE TRANSACTION PRIVILEGE TAX RATE UNDER PARAGRAPH 1 OF THIS SUBSECTION APPLYING TO PERSONS ENGAGING OR CONTINUING IN THE COUNTY IN THE UTILITIES TRANSACTION PRIVILEGE TAX CLASSIFICATION.

C. A TAX UNDER THIS SECTION MAY NOT BE LEVIED AT THE SAME TIME AS A TAX IN THE COUNTY UNDER SECTION 42-6104. A TAX LEVY UNDER THIS SECTION SHALL NOT BEGIN UNTIL THE EXPIRATION OF THE TAX UNDER SECTION 42-6104.

D. THE TAX LEVIED UNDER THIS SECTION SHALL BE IN EFFECT FOR A TERM OF TWENTY YEARS.

E. THE NET REVENUES COLLECTED UNDER THIS SECTION SHALL BE DISTRIBUTED AND DEPOSITED AS FOLLOWS FOR USE CONSISTENT WITH THE REGIONAL TRANSPORTATION PLAN ADOPTED UNDER TITLE 28, CHAPTER 17, ARTICLE 1:

1. 56.2 PER CENT TO THE REGIONAL AREA ROAD FUND PURSUANT TO SECTION 28-6303 FOR FREEWAYS AND OTHER ROUTES IN THE STATE HIGHWAY SYSTEM, INCLUDING CAPITAL EXPENSE AND MAINTENANCE.

2. 10.5 PER CENT TO THE REGIONAL AREA ROAD FUND PURSUANT TO SECTION 28-6303 FOR MAJOR ARTERIAL STREETS AND INTERSECTION IMPROVEMENTS, INCLUDING CAPITAL EXPENSE AND IMPLEMENTATION STUDIES.

3. 33.3 PER CENT TO THE PUBLIC TRANSPORTATION FUND PURSUANT TO SECTION 48-5103 FOR:

(a) CAPITAL COSTS, MAINTENANCE AND OPERATION OF PUBLIC TRANSPORTATION CLASSIFICATIONS.

(b) CAPITAL COSTS AND UTILITY RELOCATION COSTS ASSOCIATED WITH A LIGHT RAIL PUBLIC TRANSIT SYSTEM.

Sec. 21. Section 48-5103, Arizona Revised Statutes, as amended by Laws 2003, chapter 217, section 7, is amended to read:

48-5103. Public transportation fund

A. A public transportation fund is established for the authority. The fund consists of:

1. Monies appropriated by each municipality that is a member of the authority or the county, if it elected to enter into the authority. Each member municipality and member county shall appropriate monies to the public transportation fund in an amount determined by the board.

2. Monies appropriated by a county that has not elected to enter into the authority in an amount determined by the county board of supervisors.

3. Transportation excise tax revenues that are allocated to the fund pursuant to section 42-6104 OR 42-6105. THE BOARD SHALL SEPARATELY ACCOUNT FOR MONIES FROM TRANSPORTATION EXCISE TAX REVENUES ALLOCATED PURSUANT TO SECTION 42-6105, SUBSECTION E, PARAGRAPH 3 FOR:

(a) A LIGHT RAIL PUBLIC TRANSIT SYSTEM.

(b) CAPITAL COSTS FOR OTHER PUBLIC TRANSPORTATION.

(c) OPERATION AND MAINTENANCE COSTS FOR OTHER PUBLIC TRANSPORTATION.

4. Monies distributed under title 28, chapter 17, article 1.

5. Grants, gifts or donations from public or private sources.

6. Monies granted by the federal government or appropriated by the legislature.

7. Fares or other revenues collected in operating a public transportation system.

8. Local transportation assistance monies that are distributed to each member under section 28-8102 and as provided in section 48-5104.

9. Local transportation assistance monies that are distributed to a member pursuant to section 28-8102 and that must be used for public transportation.

10. Local transportation assistance monies that are distributed pursuant to section 28-8103, subsection A, paragraph 1.

B. On behalf of the authority, the fiscal agent shall administer monies paid into the public transportation fund. Monies in the fund may be spent pursuant to or to implement the regional public transportation system plan, INCLUDING REIMBURSEMENT FOR UTILITY RELOCATION COSTS AS PRESCRIBED IN SECTION 48-5107, adopted pursuant to section 48-5121 and for projects identified in the regional transportation plan adopted by the regional planning agency pursuant to section 28-6308.

C. Monies in the fund shall not be spent to promote or advocate a position, alternative or outcome of an election, to influence public opinion or to pay or contract for consultants or advisors to influence public opinion with respect to an election regarding taxes or other sources of revenue for the fund or regarding the regional public transportation system plan.

Sec. 22. Title 48, chapter 29, article 1, Arizona Revised Statutes, is amended by adding section 48-5107, to read:

48-5107. Utility relocation reimbursement; definition

A. ALL COSTS FOR THE RELOCATION, AND REASONABLE ONGOING COSTS RELATED TO THE RELOCATION, OF UTILITY FACILITIES INCURRED AFTER JULY 1, 2003 AS A DIRECT RESULT OF THE CONSTRUCTION AND OPERATION OF A LIGHT RAIL PROJECT SHALL BE REIMBURSED BY THE LIGHT RAIL PROJECT TO THE UTILITY. THE BOARD SHALL MAKE THE PAYMENTS FROM TRANSPORTATION EXCISE TAX REVENUES ALLOCATED PURSUANT TO SECTION 48-5103, SUBSECTION A, PARAGRAPH 3, SUBDIVISION (a) WITHIN NINETY DAYS AFTER PRESENTATION OF A STATEMENT OF VERIFIED EXPENSES. THE STATEMENT OF VERIFIED EXPENSES SHALL NOT INCLUDE PROFIT BUT MAY INCLUDE A REASONABLE

ALLOCATION OF GENERAL OVERHEAD. THE VERIFIED EXPENSES MAY BE REVIEWED AND AUDITED BY THE LIGHT RAIL OPERATOR, BUT THE AUDIT MUST BE CONCLUDED WITHIN NINETY DAYS AND SHALL BE CONDUCTED PURSUANT TO STANDARD INDUSTRY ACCOUNTING PRINCIPLES.

B. IF THE RELOCATED UTILITY HAS EXISTING LAND RIGHTS, THE LIGHT RAIL OPERATOR SHALL RELOCATE THE UTILITY WITH EQUAL LAND RIGHTS. IF THE RELOCATED UTILITY IS OPERATING IN THE RIGHT OF WAY UNDER A PERMIT, THE LIGHT RAIL OPERATOR SHALL RELOCATE THE UTILITY ACCORDING TO THE UTILITY'S EXISTING RIGHTS UNDER THE PERMIT WITHIN THE RIGHT OF WAY.

C. THE LIGHT RAIL OPERATOR SHALL BE FULLY RESPONSIBLE FOR ACTS, NEGLIGENCE OR OMISSIONS OF ALL OF ITS EMPLOYEES ON THE PROJECT THAT RESULT IN DAMAGE TO UTILITY FACILITIES.

D. FOR THE PURPOSES OF THIS SECTION, "UTILITY" MEANS ANY PUBLIC SERVICE CORPORATION, AGRICULTURAL IMPROVEMENT DISTRICT, LICENSED CABLE TELEVISION SYSTEM, TELEPHONE LINE OR TELEGRAPH LINE CORPORATION OR PERSON ENGAGED IN THE GENERATION, TRANSMISSION OR DELIVERY OF ELECTRICITY, NATURAL GAS, TELEPHONE, CABLE TELEVISION, TELEGRAPH OR WATER SERVICE, INCLUDING THIS STATE OR ANY POLITICAL SUBDIVISION OR AGENCY OF THIS STATE.

Sec. 23. Section 48-5121, Arizona Revised Statutes, is amended to read:

48-5121. Regional public transportation system plan

A. In counties with a population of one million two hundred thousand persons or more, the board shall develop a regional public transportation system plan THAT IS COORDINATED WITH THE REGIONAL TRANSPORTATION PLAN ADOPTED PURSUANT TO SECTION 28-6308.

B. Among other things, the regional public transportation system plan shall:

1. Define and identify regional public transportation corridors.

2. Define the public transportation problems, goals and needs for each corridor.

3. Define land use goals.

4. Determine environmental, economic, energy and social policies to guide public transportation investment decisions.

5. Order the priority of regional public transportation corridors for development.

6. Determine the mix of alternative public transportation modes appropriate for development in light of the public transportation goals and needs for each corridor.

7. Select appropriate public transportation technology including high occupancy vehicle lanes and related facilities.

8. Determine the capacity for exclusive public transportation technology.

9. Determine operating performance criteria and costs for public transportation systems.

10. Locate routes and access points to the public transportation systems.

11. Determine the ridership of public transportation systems.

C. The regional public transportation system plan shall include, in addition to the appropriate items prescribed in subsection B of this section, the following items presented on an individual fiscal year basis:

1. The capital and operating costs of the planned regional public transportation system.

2. The revenue needed by source, according to section 48-5103, to fund the regional public transportation system plan.

D. If the plan includes a rail component and if the board adopts estimates of capital and maintenance and operation costs of the rail system, each member municipality in which the rail system is constructed shall pay to the public transportation fund amounts by which the actual capital, maintenance and operation costs exceed the estimated costs by more than fifteen per cent, computed in constant dollars. The excess costs shall be allocated among the affected member municipalities according to the proportion of the rail system facilities that are located in each municipality. The affected member municipalities shall:

1. Pay the monies from their respective general funds to the public transportation fund in the fiscal year following the fiscal year in which the excess costs were incurred.

2. Not pay to the public transportation fund under this subsection monies that it received from any source pursuant to title 28.

3. Not reduce its support of transportation projects funded by any source pursuant to title 28 in order to make payments under this subsection.

E. The board may modify the regional public transportation system plan to reflect changes in population density or technological advances in the approved public transportation modes. A majority of the members of the board voting at a public hearing called for that purpose must approve a modification to the plan.

Sec. 24. Section 48-5162, Arizona Revised Statutes, is amended to read:

48-5162. Bond authority

Subject to this article the board may:

1. Issue negotiable bonds in a principal amount that, in the opinion of the board, is necessary to provide sufficient monies for any public transportation purpose THAT IS INCLUDED IN THE REGIONAL PUBLIC TRANSPORTATION SYSTEM PLAN, to establish reserves to secure the bonds and to provide for the payment of all other expenditures of the board incidental, necessary and convenient to carry out these purposes.

2. Issue refunding bonds if the board deems refunding expedient.

3. Refund any bonds issued by the board if the bonds are secured from the same source of revenues as the bonds authorized in this article by the issuance of new bonds, whether or not the bonds to be refunded have matured.

4. Issue bonds partly to refund bonds then outstanding and partly for any public transportation purpose consistent with this article. Regardless of whether or not the bonds are of such form or character as to be negotiable instruments under the terms of the uniform commercial code, the bonds are fully negotiable within the meaning and for all purposes of the uniform commercial code.

Sec. 25. Repeal

Laws 1997, chapter 1, section 346 is repealed.

Sec. 26. Regional transportation; Pinal county planning

A. Pursuant to Laws 2003, chapter 217, to appropriately plan for the transportation needs in northern Pinal county and to mitigate the impact on the Maricopa county regional transportation system, the Arizona department of transportation, the Maricopa association of governments and the Central Arizona association of governments shall jointly further define corridors identified in the southeast Maricopa/northern Pinal county area transportation study for right-of-way preservation.

B. The department shall begin the joint study process no later than December 31, 2004 including any necessary reviews and other procedures that will provide the state board of transportation the information necessary for the board to consider the identified corridors as state highways in the state highway system by December 31, 2008.

Sec. 27. Election on transportation excise tax

A. On November 2, 2004, the board of supervisors of any county with a population of one million two hundred thousand or more persons shall call and conduct a countywide election for the extension and levy of a county transportation excise tax as provided by section 42-6105, Arizona Revised Statutes, as added by this act.

B. In addition to any other requirements prescribed by law, the board of supervisors shall prepare and print an 8½" x 11" publicity pamphlet concerning the ballot question and mail one copy of the pamphlet to each household containing a registered voter in the county. The mailings may be made over a period of days but shall be mailed for delivery before the earliest date registered voters may receive early ballots for the election. The publicity pamphlet shall contain:

1. A summary of the principal provisions of the issue presented to the voters, including the rate of the transportation excise tax, the number of years the tax will be in effect and the projected annual and cumulative amount of revenues to be raised.

2. A statement describing the purposes for which the transportation excise tax monies may be spent as provided by law, including:

(a) A summary of the regional transportation plan adopted pursuant to section 28-6308, Arizona Revised Statutes, as amended by this act.

(b) A map of proposed routes and transportation corridors of all major transportation projects and public transportation systems.

(c) The estimated amount of transportation excise tax revenues, together with other identified revenues, dedicated for each transportation mode listed in section 42-6105, subsection E, Arizona Revised Statutes, as added by this act, and each public transportation system, and conditions and limitations on the use of the money within each transportation mode classification.

(d) A summary of the conditions and prohibitions on redistributing transportation excise tax revenues under section 28-6308, subsection D, Arizona Revised Statutes, as amended by this act.

(e) The Maricopa county elections department website address for additional information on the regional transportation plan.

3. The form of the ballot.

4. Any arguments for or against the ballot measure. Affirmative arguments, arranged in the order in which the elections director received them, shall be placed before the negative arguments, also arranged in the order in which they were received.

C. On or before July 9, 2004, a person may file with the county elections director an argument, not more than three hundred words in length, advocating or opposing the ballot measure. The person who files the argument shall also pay to the elections director a publication fee prescribed by the board of supervisors. If the argument is sponsored by one or more individuals, the argument shall be signed by each sponsoring individual. If the argument is sponsored by one or more organizations, the argument shall be signed by two executive officers of each organization. If the argument is sponsored by one or more political committees, the argument shall be signed by each committee's chairperson or treasurer. Payment of the fee required by this subsection, or reimbursement of the payor, constitutes sponsorship of the argument. The names of persons who have signed arguments and the names of sponsoring organizations shall appear with the argument in the pamphlet. The person or persons signing the argument shall also give their residence or post office address and a telephone number, which shall not appear in the pamphlet.

D. In addition to any other ballot requirements prescribed by law, the elections director shall cause the following to be printed on the official ballot:

1. The designation of the measure as follows: "Relating to county transportation excise (sales) taxes".

2. The title: Regional Transportation Plan.

3. A description of the ballot measure, which shall read as follows:

> A measure continuing the current transportation excise (sales) tax to address the regional transportation system by building new freeways, expanding existing freeways with additional access and capacity, constructing streets and intersections, expanding transit by extending the planned light

rail system, increasing the frequency of bus service and providing additional bus, dial-a-ride and vanpool services.

4. Instructions directing the voter to the full text of the official and descriptive titles containing the summary as printed in the sample ballot and posted in the polling place. The ballot may include the summary of the regional transportation plan.

5. The question submitted to the voters as follows:

Do you favor the continuation of a county transaction privilege (sales) tax for regional transportation purposes in _____ county? YES _____ NO _____

(A "YES" vote has the effect of continuing the transaction privilege (sales) tax in _____ county for twenty years to provide funding for transportation projects as contained in the regional transportation plan.)

(A "NO" vote has the effect of rejecting the transaction privilege (sales) tax for transportation purposes in _____ county.)

E. Except as otherwise provided by this section, the election under this section shall be conducted as nearly as practicable in the manner prescribed for general elections in title 16, Arizona Revised Statutes. The county election officer shall account for costs specifically incurred with respect to the ballot issue under this section. Regardless of the outcome of the election, and notwithstanding any other law, the state treasurer shall pay the costs listed in this subsection specifically incurred with respect to the ballot issue under this section from monies paid into the county's regional area road fund on submission of the bill by the county election officer. Costs specifically incurred with respect to the ballot issue under this section include the following:

1. Costs of mailing, publishing, posting and printing ballots, publicity pamphlets, notices, election materials and other matters concerning the election.

2. Legal and other consulting fees and costs relating to the election.

3. Telecommunications costs.

4. Compensation of the election board, county election officers and employees and other labor costs incurred to administer, hold, canvass and announce the results of the election.

5. Any other costs attributable to the election.

F. This section does not constitute a submission of any provision of law to the people for approval under the power of the referendum.

Sec. 28. Intent regarding expenditure limitations

Monies collected pursuant to a county transportation excise tax pursuant to section 42-6105, Arizona Revised Statutes, as added by this act, that are spent according to the purposes described in article IX, section 20, subsection (3), paragraph (d), subdivisions (i) and (viii), Constitution of Arizona, are exempt from the county's expenditure limitation.

Sec. 29. Appointment of members of transportation policy committee

A. An incumbent representative of the private sector who was serving on the transportation policy committee on the effective date of this section under prior law shall serve until December 31, 2004 and may be reappointed as a private sector representative by the president of the senate or the speaker of the house of representatives as provided by section 28-6308, subsection A, paragraph 2, Arizona Revised Statutes, as amended by this act.

B. The initial members appointed by the president of the senate and the speaker of the house of representatives to represent regionwide business interests shall assign themselves by lot to terms of two, four and six years in office. The chairperson of the regional planning agency shall notify the president of the senate and speaker of the house of representatives of these terms. All subsequent members serve six-year terms of office as provided by section 28-6308, Arizona Revised Statutes, as amended by this act.

Sec. 30. Conditional enactment

A. Sections 1 through 26, 28 and 29 of this act are not effective unless at an election held November 2, 2004 the county excise tax is approved by the qualified electors as provided by section 27 of this act.

B. The enactment of any provision of this act conditioned on the results of the election does not constitute a submission of those provisions to the voters under the power of the referendum.

Sec. 31. Emergency

This act is an emergency measure that is necessary to preserve the public peace, health or safety and is operative immediately as provided by law.

APPROVED BY THE GOVERNOR FEBRUARY 5, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE FEBRUARY 5, 2004.

Passed the House February 2, 2004,

by the following vote: 50 Ayes,

8 Nays, 2 Not Voting with emergency

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate February 3, 2004,

by the following vote: 25 Ayes,

3 Nays, 2 Not Voting with Emergency

Ken Bennett
President of the Senate

Chervin Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

4th day of February, 2004,

at 12:30 o'clock P. M.

Jennifer Ybarra
Secretary to the Governor

Approved this 5 day of

February, 2004,

at 11 45 o'clock A. M.

Jan Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 5th day of February, 2004,

at 12:22 o'clock P M.

Jamie L. Brewer
Secretary of State

H.B. 2456

Senate Engrossed

State of Arizona
Senate
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 1

SENATE BILL 1023

AN ACT

AMENDING SECTION 41-821, ARIZONA REVISED STATUTES; REPEALING SECTION 41-3004.17, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3014.01; RELATING TO THE ARIZONA HISTORICAL SOCIETY.

(TEXT OF BILL BEGINS ON NEXT PAGE)