House Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 162

HOUSE BILL 2103

AN ACT

AMENDING SECTIONS 35-318 AND 41-192, ARIZONA REVISED STATUTES; RELATING TO THE OFFICE OF THE STATE TREASURER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 35-318, Arizona Revised Statutes, is amended to read:

35-318. Investment managers and advisors; treasury monies; investment services account

A. The state treasurer may enter into an agreement with investment managers to invest treasury monies or with advisors to recommend investment strategies or tactics for the investment of treasury monies, INCLUDING LEGAL ADVISORS. Qualification and selection of investment managers or advisors pursuant to this section are exempt from title 41, chapter 23 but must be conducted by a process that is substantially equivalent to procedures prescribed by title 41, chapter 23. Managers or advisors who enter into a contract pursuant to this section shall be paid from earnings on investments. A contract established pursuant to this section may be annually renewable but shall be limited to a period of not more than three years. A contract may be cancelled by the treasurer with forty-five days' written notice.

B. An agreement established pursuant to subsection A of this section shall require the investment manager to regularly account for, itemize and inventory all securities under management consistent with the requirements of section 35-317, subsections C, D and E and report the findings to the state treasurer at least monthly or on demand.

C. The state treasurer shall maintain an investment services account consisting of all monies for payment of contractual financial services authorized by this section. The account shall consist of monies apportioned from the investment earnings of assets under management that are necessary for the payment of current contractual obligations.

D. Expenditures for investment management and advisory fees required by contract pursuant to subsection A of this section shall be paid on approval of the state treasurer from the investment services account established by subsection C of this section.

Sec. 2. Section 41-192, Arizona Revised Statutes, is amended to read:

41-192. Powers and duties of attorney general; restrictions on state agencies as to legal counsel; exceptions

A. The attorney general shall have charge of and direct the department of law and shall serve as chief legal officer of the state. The attorney general shall:

1. Be the legal advisor of the departments of this state and render such legal services as the departments require.

2. Establish administrative and operational policies and procedures within his department.

3. Approve long-range plans for developing departmental programs therein, and coordinate the legal services required by other departments of this state or other state agencies.

4. Represent school districts and governing boards of school districts in any lawsuit involving a conflict of interest with other county offices.

5. Represent political subdivisions, school districts and municipalities in suits to enforce state or federal statutes pertaining to antitrust, restraint of trade or price-fixing activities or conspiracies, ~~provided that~~ IF the attorney general ~~shall notify~~ NOTIFIES in writing ~~such~~ THE political subdivisions, school districts and municipalities of the attorney general's intention to bring any such action on its behalf. At any time within thirty days after ~~such~~ THE notification, ~~such~~ THE political subdivisions, school districts and municipalities ~~may~~, by formal resolution of its governing body, MAY withdraw the authority of the attorney general to bring the intended action on its behalf.

6. In any action brought by the attorney general pursuant to state or federal statutes pertaining to antitrust, restraint of trade, or price-fixing activities or conspiracies for the recovery of damages by this state or any of its political subdivisions, school districts or municipalities, in addition to the attorney general's other powers and authority, the attorney general on behalf of this state may enter into contracts relating to the investigation and prosecution of such action with any other party plaintiff who has brought a similar action for the recovery of damages and with whom the attorney general finds it advantageous to act jointly or to share common expenses or to cooperate in any manner relative to such action. In any such action, notwithstanding any other laws to the contrary, the attorney general may undertake, among other things, to render legal services as special counsel or to obtain the legal services of special counsel from any department or agency of the United States, of this state or any other state or any department or agency thereof or any county, city, public corporation or public district in this state or in any other state that has brought or intends to bring a similar action for the recovery of damages or their duly authorized legal representatives in such action.

7. Organize the civil rights division within the department of law and administer such division pursuant to the powers and duties provided in chapter 9 of this title.

8. Compile, publish and distribute to all state agencies, departments, boards, commissions and councils, and to other persons and government entities on request, at least every ten years, the Arizona agency handbook that sets forth and explains the major state laws that govern state agencies, including information on the laws relating to bribery, conflicts of interest, contracting with the government, disclosure of public information, discrimination, nepotism, financial disclosure, gifts and extra compensation, incompatible employment, political activity by employees, public access and misuse of public resources for personal gain. A supplement to the handbook reflecting revisions to the information contained in the handbook shall be compiled and distributed by the attorney general as deemed necessary.

B. Except as otherwise provided by law, the attorney general may:

1. Organize the department into such bureaus, subdivisions or units as he deems most efficient and economical, and consolidate or abolish them.

2. Adopt rules for the orderly conduct of the business of the department.

3. Employ and assign assistant attorneys general and other employees necessary to perform the functions of the department.

4. Compromise or settle any action or claim by or against this state or any department, board or agency ~~thereof~~ OF THIS STATE. ~~Where such~~ IF THE compromise or settlement involves a particular department, board or agency of this state, the compromise or settlement shall be first approved by ~~such~~ THE department, board or agency. ~~Where~~ IF no department or agency is named or otherwise materially involved, the approval of the governor shall be first obtained.

5. Charge reasonable fees for distributing official publications, including attorney general legal opinions and the Arizona agency handbook. The fees received shall be transmitted to the state treasurer for deposit in the state general fund.

C. Assistants and employees in any legal division subject to a merit system prior to March 6, 1953 shall remain subject thereto.

D. The powers and duties of a bureau, subdivision or unit shall be limited to those assigned by law to the department.

E. Notwithstanding any law to the contrary, except as provided in subsections F and G of this section, no state agency other than the attorney general shall employ legal counsel or make an expenditure or incur an indebtedness for legal services, but the following are exempt from this section:

1. The director of water resources.
2. The residential utility consumer office.
3. The industrial commission.
4. The Arizona board of regents.
5. The auditor general.
6. The corporation commissioners and the corporation commission other than the securities division.
7. The advocate for private property rights.
8. The office of the governor.
9. The constitutional defense council.
10. THE OFFICE OF THE STATE TREASURER.

F. If the attorney general determines that he is disqualified from providing judicial or quasi-judicial legal representation or legal services on behalf of any state agency in relation to any matter, the attorney general shall give written notification to the state agency affected. If the agency has received written notification from the attorney general that the attorney general is disqualified from providing judicial or quasi-judicial legal representation or legal services in relation to any particular matter, the state agency is authorized to make expenditures and incur indebtedness to employ attorneys to provide the representation or services.

G. If the attorney general and the director of the department of agriculture cannot agree on the final disposition of a pesticide complaint under section 3-368, if the attorney general and the director determine that a conflict of interest exists as to any matter or if the attorney general and the director determine that the attorney general does not have the expertise or attorneys available to handle a matter, the director is authorized to make expenditures and incur indebtedness to employ attorneys to provide representation or services to the department with regard to that matter.

H. Any department or agency of this state authorized by law to maintain a legal division or incur expenses for legal services from funds derived from sources other than the general revenue of the state, or from any special or trust fund, shall pay from such source of revenue or special or trust fund into the general fund of the state, to the extent such funds are available and upon a reimbursable basis for warrants drawn, the amount actually expended by the department of law within legislative appropriations for such legal division or legal services.

I. Appropriations made pursuant to subsection H of this section shall not be subject to lapsing provisions otherwise provided by law. Services for departments or agencies to which this subsection and subsection G of this section are applicable shall be performed by special or regular assistants to the attorney general.

J. Notwithstanding ~~the provisions of~~ section 35-148, monies received by the attorney general from charges to state agencies and political subdivisions for legal services relating to interagency service agreements shall be deposited, pursuant to sections 35-146 and 35-147, in an attorney general agency services fund. Monies in the fund are subject to legislative appropriation and are exempt from the provisions of section 35-190~~,~~ relating to lapsing of appropriations.

APPROVED BY THE GOVERNOR JULY 13, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 13, 2009.

Passed the House June 9, 2009

by the following vote: 34 Ayes,

25 Nays, 1 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate June 22, 2009

by the following vote: 18 Ayes,

10 Nays, 2 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

1st day of July, 2009

at 8:25 o'clock A. M.

Secretary to the Governor

Approved this 13th day of

July 2009

at 5:59 o'clock P M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 13th day of July, 2009

at 7:35 o'clock P M.

Secretary of State

H.B. 2103