House Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

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

CHAPTER 52

HOUSE BILL 2480

AN ACT

AMENDING SECTIONS 28-9102, 28-9104, 28-9142, 42-6106, 42-6107, 48-5301 AND 48-5302, ARIZONA REVISED STATUTES; RELATING TO TRANSPORTATION FUNDING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 28-9102, Arizona Revised Statutes, is amended to read:

28-9102. Formation

A. An intergovernmental public transportation authority may be organized as provided by this section in any county with a population of ~~four~~ TWO hundred thousand persons or less.

B. The governing body of one or more incorporated ~~city~~ CITIES or ~~town~~ TOWNS may petition the county board of supervisors to establish an authority consisting of the area within the incorporated boundary of the municipality or municipalities.

C. If the organizing municipalities are not contiguous, the unincorporated areas between the organizing municipalities must also be included in the authority with the approval of the county board of supervisors. The board of supervisors shall establish the boundaries of the unincorporated area to be included in the authority.

D. Incorporated cities and towns in different counties, each of which meet the population limit prescribed by subsection A, may petition their respective county boards of supervisors to establish a joint authority consisting of the combined areas within their respective municipal boundaries and including any intervening unincorporated areas in the counties.

E. The board of supervisors shall hold at least one hearing on the petition in one of the petitioning municipalities to determine public support for the authority and whether establishing the authority would be in the public interest. In the case of petitioning municipalities in different counties, the board of supervisors of each county shall hold separate hearings and each board shall make its determination separately.

F. If the board of supervisors determines that establishing the authority would serve the public convenience, necessity, safety or welfare, the board of supervisors shall establish the authority by a resolution that includes a description of the boundaries of the authority. In the case of an authority in different counties, the county boards of supervisors shall establish the authority by an intergovernmental agreement.

G. If an authority is established under this chapter, any university THAT IS under the jurisdiction of the Arizona board of regents AND that is located in a municipality in the authority may become a member of the authority by intergovernmental agreement.

Sec. 2. Section 28-9104, Arizona Revised Statutes, is amended to read:

28-9104. Dissolution

A. A majority of the board of directors of an authority may propose that the authority be dissolved, but only if all contractual obligations and debts of the authority are satisfied and if another governmental entity or entities accept dedication of all authority property and obligations.

B. After a hearing, the board shall adopt by resolution a plan of termination to be executed within a stated period of time after it is adopted.

C. The growth of a county population to more than ~~four~~ TWO hundred thousand persons does not cause the dissolution of an authority by operation of law.

Sec. 3. Section 28-9142, Arizona Revised Statutes, is amended to read:

28-9142. Public transportation authority fund

A. The authority treasurer shall maintain a public transportation authority fund consisting of all monies received by the authority including:

1. Monies appropriated or paid to the authority from municipalities, member universities and the county.

2. Monies received by the authority from the federal government or this state.

3. Grants, gifts and other donations from any source.

4. Revenues collected by the authority as fares and other proceeds from operating the public transportation system.

5. MONIES RECEIVED FROM THE COUNTY TRANSPORTATION EXCISE TAX AS PROVIDED IN SECTION 42-6106.

B. Monies in the fund may be used for any lawful purpose of the authority.

C. The authority treasurer may invest any unexpended monies in the fund as provided in title 35, chapter 2, including in the local government investment pool, if authorized by the state treasurer. Interest and other income from investments shall be credited to the fund.

D. The authority treasurer shall invest the monies to mature at the times when the fund assets will be required for the purposes of this article. If the liquid assets in the fund become insufficient to meet the authority's obligations, the board of directors shall:

1. Direct the authority treasurer to liquidate sufficient securities to meet all of the current obligations.

2. Immediately notify the auditor general of the insufficiency. The auditor general shall investigate and audit the circumstances surrounding the depletion of the fund and report the findings to the board.

E. The board shall cause an annual audit to be conducted of the fund by an independent certified public accountant within one hundred twenty days after the end of the fiscal year. The board shall immediately file a certified copy of the audit with the auditor general. The auditor general may make further audits and examinations as necessary, but if the auditor general takes no official action within thirty days after the audit is filed, the audit is considered to be sufficient. The board shall pay all fees and costs of the certified public accountant and auditor general under this subsection from the fund.

Sec. 4. Section 42-6106, Arizona Revised Statutes, is amended to read:

42-6106. County transportation excise tax; county population requirements

A. In a county with a population exceeding ~~four~~ TWO hundred thousand but fewer than one million two hundred thousand persons, if approved by the qualified electors voting at a countywide election, the regional transportation authority in the county shall levy and the department shall collect a transportation excise tax up to the rate authorized by this section in addition to all other taxes. A COUNTY WITH A POPULATION OF FOUR HUNDRED THOUSAND OR FEWER PERSONS BUT MORE THAN TWO HUNDRED THOUSAND PERSONS SHALL NOT LEVY A TAX UNDER BOTH THIS SECTION AND SECTION 42-6107.

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 in effect on 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 applying to persons engaging or continuing in the county in the utilities transaction privilege tax classification.

C. Any subsequent reduction in the transaction privilege tax rate prescribed by chapter 5, article 1 of this title shall not reduce the tax which is approved and collected as prescribed in this section. The department shall collect the tax at a variable rate if the variable rate is specified in the ballot proposition. The department shall collect the tax at a modified rate if approved by a majority of the qualified electors voting.

D. The net revenues collected under this section:

1. IN COUNTIES WITH A POPULATION EXCEEDING FOUR HUNDRED THOUSAND BUT FEWER THAN ONE MILLION TWO HUNDRED THOUSAND PERSONS shall be deposited in the regional transportation fund pursuant to section 48-5307.

2. IN COUNTIES WITH A POPULATION OF FOUR HUNDRED THOUSAND OR FEWER PERSONS BUT MORE THAN TWO HUNDRED THOUSAND PERSONS, SHALL BE DEPOSITED IN THE PUBLIC TRANSPORTATION AUTHORITY FUND PURSUANT TO SECTION 28-9142 OR THE

REGIONAL TRANSPORTATION FUND PURSUANT TO SECTION 48-5307 OR SHALL BE ALLOCATED BETWEEN BOTH FUNDS.

E. The tax shall be levied under this section beginning January 1 or July 1, whichever date occurs first after approval by the voters, and may be in effect for a period of not more than twenty years.

Sec. 5. Section 42-6107, Arizona Revised Statutes, is amended to read:

42-6107. County transportation excise tax for roads; counties with population of four hundred thousand or less

A. If a majority of the qualified electors voting at a countywide special election, or a majority of the qualified electors voting on the ballot proposition at a general election, approves the transportation excise tax, a county with a population of four hundred thousand or fewer persons shall levy and the department shall collect a tax:

1. At a rate of not more than ten per cent of the transaction privilege tax rate as prescribed by section 42-5010, subsection A applying, as of January 1, 1990, to each person engaging or continuing in the county in a business taxed under chapter 5, article 1 of this title.

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 applying to persons engaging or continuing in the county in the utilities transaction privilege tax classification. If a majority of the qualified electors in the county approved the transportation excise tax under this section before 1998, a tax under this paragraph may be approved by resolution adopted by a majority of the board of supervisors.

B. A COUNTY WITH A POPULATION OF FOUR HUNDRED THOUSAND OR FEWER PERSONS BUT MORE THAN TWO HUNDRED THOUSAND PERSONS SHALL NOT LEVY A TAX UNDER BOTH THIS SECTION AND SECTION 42-6106.

~~B.~~ C. The net revenues collected under this section within a county shall be deposited in the county's regional area road fund pursuant to title 28, chapter 17, article 3.

~~C.~~ D. The tax shall be levied under this section beginning January 1 or July 1, whichever date occurs first after approval by the voters, and may be in effect for a period of not more than twenty years.

Sec. 6. Section 48-5301, Arizona Revised Statutes, is amended to read:

48-5301. Definitions

In this chapter, unless the context otherwise requires:

1. "Arterial street or highway" means a street or highway that is used primarily for through traffic such that vehicular traffic from intersecting streets and highways is required by law to stop or yield before entering or crossing the street or highway.

2. "Authority" means a regional transportation authority organized under this chapter.

3. "Board" means the board of directors of a regional transportation authority established pursuant to section 48-5303.

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

5. "County" means a county with a population of more than ~~four~~ TWO hundred thousand but less than one million two hundred thousand persons IN WHICH A REGIONAL TRANSPORTATION AUTHORITY IS ESTABLISHED PURSUANT TO SECTION 48-5302.

6. "Fiscal agent" means a bank or trust company authorized to do business in this state or the county treasurer as designated by the board.

7. "Municipality" means an incorporated city or town.

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.

9. "Public transportation" means local transportation of passengers by means of a public conveyance, including para-transit.

Sec. 7. Section 48-5302, Arizona Revised Statutes, is amended to read:

48-5302. Regional transportation authority; establishment

A. A regional transportation authority is established in a county with a population of more than four hundred thousand but less than one million two hundred thousand persons. THE BOARD OF SUPERVISORS OF A COUNTY WITH A POPULATION OF FOUR HUNDRED THOUSAND OR FEWER PERSONS BUT MORE THAN TWO HUNDRED THOUSAND PERSONS MAY ESTABLISH A REGIONAL TRANSPORTATION AUTHORITY IN THE COUNTY.

B. An authority is a public, political, tax levying public improvement and taxing subdivision of this state and a municipal corporation to the extent of the powers and privileges conferred by this chapter or granted generally by the constitution and statutes of this state, including immunity of its property and the interest income and gain on its bonds from taxation.

C. The membership of the authority consists of each municipality in the county, the county and any other members of the regional council of governments. The authority may operate in all areas of the county in which it is organized.

D. The executive director of the regional council of governments acts as the executive director of the authority and serves in that specific role until replaced at the discretion of the board of the regional council of governments.

APPROVED BY THE GOVERNOR JULY 10, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 10, 2009.

Passed the House June 9, 20 09

by the following vote: 41 Ayes,

18 Nays, 1 Not Voting

Speaker of the House

Norman L. Moore

Chief Clerk of the House

Passed the Senate June 26, 20 09

by the following vote: 17 Ayes,

7 Nays, 6 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, 20 09

at 8:25 o'clock A. M.

Susan K Myers

Secretary to the Governor

Approved this 10th day of

July 2009

at 9:49 o'clock A. M.

Janice K. Brewer

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 10 day of July, 20 09

at 12:30 o'clock P. M.

Ken Bennett

Secretary of State

H.B. 2480