

House Engrossed
FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 128

HOUSE BILL 2243

AN ACT

AMENDING SECTION 41-2306, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, SEVENTH SPECIAL SESSION, CHAPTER 12, SECTION 17; AMENDING SECTION 42-5029, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, SEVENTH SPECIAL SESSION, CHAPTER 12, SECTION 31; RELATING TO TOURISM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-2306, Arizona Revised Statutes, as amended by
3 Laws 2010, seventh special session, chapter 12, section 17, is amended to
4 read:

5 41-2306. Tourism fund

6 A. The tourism fund is established consisting of separate accounts
7 derived from:

8 1. REVENUES DEPOSITED PURSUANT TO SECTION 42-5029. ALL MONIES IN THIS
9 ACCOUNT ARE CONTINUOUSLY APPROPRIATED TO THE OFFICE OF TOURISM FOR THE
10 PURPOSES OF OPERATIONS AND STATEWIDE TOURISM PROMOTION.

11 ~~1~~ 2. Revenues deposited pursuant to section 5-835, subsection B
12 or C. All monies in this account are continuously appropriated to the office
13 of tourism, which, in consultation with a consortium of destination marketing
14 organizations in the county in which the tourism and sports authority is
15 established, shall be spent to promote tourism within that county. FOR
16 FISCAL YEARS 2010-2011 AND 2011-2012, fifty per cent of the revenues
17 deposited in the tourism fund pursuant to this subsection may be expended by
18 the office of tourism for operational and administrative purposes.

19 ~~2~~ 3. Revenues deposited pursuant to section 42-6108.01. The
20 legislature shall appropriate all monies in this account to the office of
21 tourism, which, in conjunction with the destination marketing organization in
22 the county in which the tax revenues are collected, shall be spent only to
23 promote tourism within that county and shall not be spent for administrative
24 or overhead expenses.

25 4. Revenues deposited pursuant to section 5-601.02(H)(3)(b)(iv). The
26 office of tourism shall administer the account. The account is not subject
27 to appropriation, and expenditures from the fund are not subject to outside
28 approval notwithstanding any statutory provision to the contrary. Monies
29 received pursuant to section 5-601.02 shall be deposited directly with this
30 account. On notice from the office of tourism, the state treasurer may
31 invest and divest monies in the account as provided by section 35-313, and
32 monies earned from investment shall be credited to the account. No monies in
33 the account shall revert to or be deposited in any other fund, including the
34 state general fund. Monies in this account shall supplement, not supplant,
35 current funds in other accounts of the tourism fund. Monies in this account
36 shall be spent only to promote tourism within the state and shall not be used
37 for administrative or overhead expenses.

38 B. Monies in the fund are exempt from the provisions of section 35-190
39 relating to lapsing of appropriations.

40 Sec. 2. Section 42-5029, Arizona Revised Statutes, as amended by Laws
41 2010, seventh special session, chapter 12, section 31, is amended to read:
42 42-5029. Remission and distribution of monies; definition

43 A. The department shall deposit, pursuant to sections 35-146 and
44 35-147, all revenues collected under this article and articles 4, 5 and 8 of
45 this chapter pursuant to section 42-1116, separately accounting for:

- 1 1. Payments of estimated tax under section 42-5014, subsection D.
- 2 2. Revenues collected pursuant to section 42-5070.
- 3 3. Revenues collected under this article and article 5 of this chapter
- 4 from and after June 30, 2000 from sources located on Indian reservations in
- 5 this state.
- 6 4. Revenues collected pursuant to section 42-5010, subsection G and
- 7 section 42-5155, subsection D.
- 8 B. The department shall credit payments of estimated tax to an
- 9 estimated tax clearing account and each month shall transfer all monies in
- 10 the estimated tax clearing account to a fund designated as the transaction
- 11 privilege and severance tax clearing account. The department shall credit
- 12 all other payments to the transaction privilege and severance tax clearing
- 13 account, separately accounting for the monies designated as distribution base
- 14 under sections 42-5010, 42-5164, 42-5205 and 42-5353. Each month the
- 15 department shall report to the state treasurer the amount of monies collected
- 16 pursuant to this article and articles 4, 5 and 8 of this chapter.
- 17 C. On notification by the department, the state treasurer shall
- 18 distribute the monies deposited in the transaction privilege and severance
- 19 tax clearing account in the manner prescribed by this section and by sections
- 20 42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the
- 21 account pursuant to sections 42-1118 and 42-1254.
- 22 D. Of the monies designated as distribution base the department shall:
- 23 1. Pay twenty-five per cent to the various incorporated municipalities
- 24 in this state in proportion to their population to be used by the
- 25 municipalities for any municipal purpose.
- 26 2. Pay 38.08 per cent to the counties in this state by averaging the
- 27 following proportions:
- 28 (a) The proportion that the population of each county bears to the
- 29 total state population.
- 30 (b) The proportion that the distribution base monies collected during
- 31 the calendar month in each county under this article, section 42-5164,
- 32 subsection B, section 42-5205, subsection B and section 42-5353 bear to the
- 33 total distribution base monies collected under this article, section 42-5164,
- 34 subsection B, section 42-5205, subsection B and section 42-5353 throughout
- 35 the state for the calendar month.
- 36 3. Pay an additional 2.43 per cent to the counties in this state as
- 37 follows:
- 38 (a) Average the following proportions:
- 39 (i) The proportion that the assessed valuation used to determine
- 40 secondary property taxes of each county, after deducting that part of the
- 41 assessed valuation that is exempt from taxation at the beginning of the month
- 42 for which the amount is to be paid, bears to the total assessed valuations
- 43 used to determine secondary property taxes of all the counties after
- 44 deducting that portion of the assessed valuations that is exempt from
- 45 taxation at the beginning of the month for which the amount is to be paid.

1 Property of a city or town that is not within or contiguous to the municipal
2 corporate boundaries and from which water is or may be withdrawn or diverted
3 and transported for use on other property is considered to be taxable
4 property in the county for purposes of determining assessed valuation in the
5 county under this item.

6 (ii) The proportion that the distribution base monies collected during
7 the calendar month in each county under this article, section 42-5164,
8 subsection B, section 42-5205, subsection B and section 42-5353 bear to the
9 total distribution base monies collected under this article, section 42-5164,
10 subsection B, section 42-5205, subsection B and section 42-5353 throughout
11 the state for the calendar month.

12 (b) If the proportion computed under subdivision (a) of this paragraph
13 for any county is greater than the proportion computed under paragraph 2 of
14 this subsection, the department shall compute the difference between the
15 amount distributed to that county under paragraph 2 of this subsection and
16 the amount that would have been distributed under paragraph 2 of this
17 subsection using the proportion computed under subdivision (a) of this
18 paragraph and shall pay that difference to the county from the amount
19 available for distribution under this paragraph. Any monies remaining after
20 all payments under this subdivision shall be distributed among the counties
21 according to the proportions computed under paragraph 2 of this subsection.

22 4. After any distributions required by sections 42-5030, 42-5030.01,
23 42-5031, 42-5032 and 42-5032.01, and after making any transfer to the water
24 quality assurance revolving fund as required by section 49-282, subsection B,
25 credit the remainder of the monies designated as distribution base to the
26 state general fund. From this amount:

27 (a) The legislature shall annually appropriate to:

28 (a) (i) The department of revenue sufficient monies to administer and
29 enforce this article and articles 5 and 8 of this chapter.

30 ~~(b)~~ (ii) The department of economic security monies to be used for
31 the purposes stated in title 46, chapter 1.

32 ~~(c)~~ (iii) The firearms safety and ranges fund established by section
33 17-273, fifty thousand dollars derived from the taxes collected from the
34 retail classification pursuant to section 42-5061 for the current fiscal
35 year.

36 (b) SUBJECT TO SEPARATE INITIAL LEGISLATIVE AUTHORIZATION, EACH YEAR
37 THE STATE TREASURER SHALL TRANSFER TO THE TOURISM FUND AN AMOUNT EQUAL TO THE
38 SUM OF THE FOLLOWING:

39 (i) THREE AND ONE-HALF PER CENT OF THE GROSS REVENUES DERIVED FROM THE
40 TRANSIENT LODGING CLASSIFICATION PURSUANT TO SECTION 42-5070 DURING THE
41 PRECEDING FISCAL YEAR.

42 (ii) THREE PER CENT OF THE GROSS REVENUES DERIVED FROM THE AMUSEMENT
43 CLASSIFICATION PURSUANT TO SECTION 42-5073 DURING THE PRECEDING FISCAL YEAR.

44 (iii) TWO PER CENT OF THE GROSS REVENUES DERIVED FROM THE RESTAURANT
45 CLASSIFICATION PURSUANT TO SECTION 42-5074 DURING THE PRECEDING FISCAL YEAR.

1 E. If approved by the qualified electors voting at a statewide general
2 election, all monies collected pursuant to section 42-5010, subsection G and
3 section 42-5155, subsection D shall be distributed each fiscal year pursuant
4 to this subsection. The monies distributed pursuant to this subsection are
5 in addition to any other appropriation, transfer or other allocation of
6 public or private monies from any other source and shall not supplant,
7 replace or cause a reduction in other school district, charter school,
8 university or community college funding sources. The monies shall be
9 distributed as follows:

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

19 2. After any transfer of monies pursuant to paragraph 1 of this
20 subsection, twelve per cent of the remaining monies collected during the
21 preceding month shall be transferred to the technology and research
22 initiative fund established by section 15-1648 to be distributed among the
23 universities for the purpose of investment in technology and research-based
24 initiatives.

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

30 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
31 subsection, one-twelfth of the amount a community college that is owned,
32 operated or chartered by a qualifying Indian tribe on its own Indian
33 reservation would receive pursuant to section 15-1472, subsection D,
34 paragraph 2 if it were a community college district shall be distributed each
35 month to the treasurer or other designated depository of a qualifying Indian
36 tribe. Monies distributed pursuant to this paragraph are for the exclusive
37 purpose of providing support to one or more community colleges owned,
38 operated or chartered by a qualifying Indian tribe and shall be used in a
39 manner consistent with section 15-1472, subsection B. For the purposes of
40 this paragraph, "qualifying Indian tribe" has the same meaning as defined in
41 section 42-5031.01, subsection D.

42 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
43 subsection, one-twelfth of the following amounts shall be transferred each
44 month to the department of education for the increased cost of basic state

1 aid under section 15-971 due to added school days and associated teacher
2 salary increases enacted in 2000:

- 3 (a) In fiscal year 2001-2002, \$15,305,900.
- 4 (b) In fiscal year 2002-2003, \$31,530,100.
- 5 (c) In fiscal year 2003-2004, \$48,727,700.
- 6 (d) In fiscal year 2004-2005, \$66,957,200.
- 7 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
8 \$86,280,500.

9 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
10 subsection, seven million eight hundred thousand dollars is appropriated each
11 fiscal year, to be paid in monthly installments, to the department of
12 education to be used for school safety as provided in section 15-154 and two
13 hundred thousand dollars is appropriated each fiscal year, to be paid in
14 monthly installments to the department of education to be used for the
15 character education matching grant program as provided in section 15-154.01.

16 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
17 subsection, no more than seven million dollars may be appropriated by the
18 legislature each fiscal year to the department of education to be used for
19 accountability purposes as described in section 15-241 and title 15, chapter
20 9, article 8.

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

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

29 10. After the payment of monies pursuant to paragraphs 1 through 9 of
30 this subsection, the remaining monies collected during the preceding month
31 shall be transferred to the classroom site fund established by section
32 15-977. The monies shall be allocated as follows in the manner prescribed by
33 section 15-977:

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

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

38 (c) Forty per cent shall be allocated for maintenance and operation
39 purposes.

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

43 G. Notwithstanding subsection D of this section, if a court of
44 competent jurisdiction finally determines that tax monies distributed under
45 this section were illegally collected under this article or articles 5 and 8

1 of this chapter and orders the monies to be refunded to the taxpayer, the
2 department shall compute the amount of such monies that was distributed to
3 each city, town and county under this section. The department shall notify
4 the state treasurer of that amount plus the proportionate share of additional
5 allocated costs required to be paid to the taxpayer. Each city's, town's and
6 county's proportionate share of the costs shall be based on the amount of the
7 original tax payment each municipality and county received. Each month the
8 state treasurer shall reduce the amount otherwise distributable to the city,
9 town and county under this section by one thirty-sixth of the total amount to
10 be recovered from the city, town or county until the total amount has been
11 recovered, but the monthly reduction for any city, town or county shall not
12 exceed ten per cent of the full monthly distribution to that entity. The
13 reduction shall begin for the first calendar month after the final
14 disposition of the case and shall continue until the total amount, including
15 interest and costs, has been recovered.

16 H. On receiving a certificate of default from the greater Arizona
17 development authority pursuant to section 41-1554.06 or 41-1554.07 and to the
18 extent not otherwise expressly prohibited by law, the state treasurer shall
19 withhold from the next succeeding distribution of monies pursuant to this
20 section due to the defaulting political subdivision the amount specified in
21 the certificate of default and immediately deposit the amount withheld in the
22 greater Arizona development authority revolving fund. The state treasurer
23 shall continue to withhold and deposit the monies until the greater Arizona
24 development authority certifies to the state treasurer that the default has
25 been cured. In no event may the state treasurer withhold any amount that the
26 defaulting political subdivision certifies to the state treasurer and the
27 authority as being necessary to make any required deposits then due for the
28 payment of principal and interest on bonds of the political subdivision that
29 were issued before the date of the loan repayment agreement or bonds and that
30 have been secured by a pledge of distributions made pursuant to this section.

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

36 J. Except as otherwise provided by this subsection, on notice from the
37 department of revenue pursuant to section 42-6010, subsection B, the state
38 treasurer shall withhold from the distribution of monies pursuant to this
39 section to the affected city or town the amount of the penalty for business
40 location municipal tax incentives provided by the city or town to a business
41 entity that locates a retail business facility in the city or town. The
42 state treasurer shall continue to withhold monies pursuant to this subsection
43 until the entire amount of the penalty has been withheld. The state
44 treasurer shall credit any monies withheld pursuant to this subsection to the
45 state general fund as provided by subsection D, paragraph 4 of this section.

1 The state treasurer shall not withhold any amount that the city or town
2 certifies to the department of revenue and the state treasurer as being
3 necessary to make any required deposits or payments for debt service on bonds
4 or other long-term obligations of the city or town that were issued or
5 incurred before the location incentives provided by the city or town.

6 K. On notice from the auditor general pursuant to section 9-626,
7 subsection D, the state treasurer shall withhold from the distribution of
8 monies pursuant to this section to the affected city the amount computed
9 pursuant to section 9-626, subsection D. The state treasurer shall continue
10 to withhold monies pursuant to this subsection until the entire amount
11 specified in the notice has been withheld. The state treasurer shall credit
12 any monies withheld pursuant to this subsection to the state general fund as
13 provided by subsection D, paragraph 4 of this section.

14 L. For the purposes of this section, "community college district"
15 means a community college district that is established pursuant to sections
16 15-1402 and 15-1403 and that is a political subdivision of this state.

APPROVED BY THE GOVERNOR APRIL 23, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 2010.

Passed the House April 1, 20 10

Passed the Senate April 19, 20 10

by the following vote: 53 Ayes,

by the following vote: 19 Ayes,

2 Nays, 5 Not Voting

9 Nays, 2 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

Cheryl Laube
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

20 day of April, 20 10

at 4:40 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 23rd day of

April

at 5:01 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 26th day of April, 20 10

at 12:30 o'clock P. M.

[Signature]
Secretary of State

H.B. 2243