CORRECTED

Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

CHAPTER 333

HOUSE BILL 2314

AN ACT

AMENDING SECTIONS 5-382, 5-383, 41-511.04 AND 41-511.25, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1008.01; AMENDING LAWS 2011, CHAPTER 35, SECTION 10; RELATING TO STATE AGENCY FEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 5-382, Arizona Revised Statutes, is amended to read:

5-382. State lake improvement fund; administration; report

A. A state lake improvement fund is established. Monies deposited in the fund shall be used only as provided in this section.

B. All monies in the state lake improvement fund are appropriated to the Arizona state parks board solely for the purposes provided in this section. Interest earned on monies in the fund shall be credited to the fund. Monies in the state lake improvement fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

C. The Arizona state parks board shall administer the monies in the fund as follows:

1. To fund staff support to plan and administer the state lake improvement fund ~~and the law enforcement and boating safety fund established by section 5-383~~ in conjunction with other administrative tasks and recreation plans of the board.

2. To fund projects on waters where gasoline powered boats are permitted and shall be limited to the following:

(a) Public launching ramps.

(b) Public piers, marinas or marina stadia.

(c) Public toilets, sanitation facilities and domestic waters.

(d) Public picnic tables and facilities.

(e) Public parking areas.

(f) Lake construction or improvement.

(g) Marking buoys and other safety facilities.

(h) Watercraft.

(i) Public campgrounds.

(j) Acquisition of real and personal property through purchase, lease, agreement or otherwise for the purpose of providing access to waters where boating is permitted.

(k) Design and engineering projects.

D. Projects involving expenditure of monies from such fund may be accomplished by the Arizona state parks board, by the Arizona game and fish commission, by the board of supervisors of any county or by the governing body of a city or town, provided such projects do not interfere with any vested water rights, or the operation or maintenance of water projects, including domestic, municipal, irrigation district, drainage district, flood control district or reclamation projects. The Arizona outdoor recreation coordinating commission, established by section 41-511.25, shall examine applications for eligible projects, determine the amount of funding, if any, for each project and submit a list of projects, subject to prior review by the joint committee on capital review, to the Arizona state parks board for allocation from the fund. The board shall annually report to the legislature

the expenditures made for such projects in conjunction with the report required by section 41-511.12.

E. State lake improvement funds may be used on projects where matching funds are made available.

Sec. 2. Section 5-383, Arizona Revised Statutes, is amended to read:

5-383. Law enforcement and boating safety fund; boating law enforcement, personnel, equipment and training funding to counties

A. A law enforcement and boating safety fund is established that consists of monies distributed to the fund pursuant to section 5-323. The monies are subject to legislative appropriation. ~~The Arizona state parks board shall administer the fund and establish and adopt procedures for the allocation of the monies.~~

B. ~~The board of supervisors of any county may apply for law enforcement and boating safety fund grants from the Arizona outdoor recreation coordinating commission for the ensuing fiscal year on forms provided by the Arizona outdoor recreation coordinating commission.~~ ONLY A BOARD OF SUPERVISORS OF A COUNTY THAT HAS A LAW ENFORCEMENT AND BOATING SAFETY PROGRAM THAT WAS IN EXISTENCE BEFORE JULY 1, 1990 SHALL BE ELIGIBLE TO RECEIVE LAW ENFORCEMENT AND BOATING SAFETY FUND MONIES.

C. ~~The Arizona outdoor recreation coordinating commission may~~ THE STATE TREASURER SHALL ADMINISTER THE FUND. USING AN ALLOCATION FORMULA AS DETERMINED ANNUALLY BY THE COMMISSION, THE STATE TREASURER SHALL distribute ~~grant~~ monies MONTHLY from the law enforcement and boating safety fund to ELIGIBLE counties AS PRESCRIBED IN SUBSECTION B OF THIS SECTION. ~~that properly apply to receive the monies. In allocating the monies the commission may consider the following:~~

D. IN DETERMINING THE ALLOCATION FORMULA, THE COMMISSION MAY CONSIDER THE FOLLOWING:

1. The adequacy of existing county boating safety programs that include accident investigations.

2. The number of recreational days of use on water within the jurisdiction of the counties in areas of administrative authority.

3. The surface acreage of water within the jurisdiction of the counties in areas of administrative authority.

4. The county water safety record.

5. The ability of the county to constructively use additional monies.

6. The ratio of boating use to water surface within the jurisdiction of the counties in areas of administrative authority.

7. The ability of participating counties to provide continued funding of the program.

8. ANNUAL INPUT AND FEEDBACK FROM THE COUNTY BOARDS OF SUPERVISORS RECEIVING FUNDS.

9. BOAT ACCIDENT DATA FOR THE WATERWAYS WITHIN THE JURISDICTION OF THE COUNTY.

~~D.~~ E. The monies distributed to a county BOARD OF SUPERVISORS shall be used by the law enforcement agencies of the county solely for boating law enforcement, personnel, equipment and training.

~~E. A county that applies for monies pursuant to this section and that has a law enforcement and boating safety program that was in existence before July 1, 1980 shall match the monies received pursuant to this section by an equal amount for that county's law enforcement and boating safety program.~~

Sec. 3. Section 41-511.04, Arizona Revised Statutes, is amended to read:

41-511.04. Duties; board; partnership fund; state historic preservation officer; definition

A. The board shall:

1. Select areas of scenic beauty, natural features and historical properties now owned by the state, except properties in the care and custody of other agencies by virtue of agreement with the state or as established by law, for management, operation and further development as state parks and historical monuments.

2. Manage, develop and operate state parks, monuments or trails established or acquired pursuant to law, or previously granted to the state for park or recreation purposes, except those falling under the jurisdiction of other state agencies as established by law.

3. Investigate lands owned by the state to determine in cooperation with the agency that manages the land which tracts should be set aside and dedicated for use as state parks, monuments or trails.

4. Investigate federally owned lands to determine their desirability for use as state parks, monuments or trails and negotiate with the federal agency having jurisdiction over such lands for the transfer of title to the Arizona state parks board.

5. Investigate privately owned lands to determine their desirability as state parks, monuments or trails and negotiate with private owners for the transfer of title to the Arizona state parks board.

6. Enter into agreements with the United States, other states or local governmental units, private societies or persons for the development and protection of state parks, monuments and trails.

7. Plan, coordinate and administer a state historic preservation program including the program established pursuant to the national historic preservation act of 1966, as amended.

8. Advise, assist and cooperate with federal and state agencies, political subdivisions of this state and other persons in identifying and preserving properties of historic or prehistoric significance.

9. Keep and administer an Arizona register of historic places composed of districts, sites, buildings, structures and objects significant in this state's history, architecture, archaeology, engineering and culture which meet criteria which the board establishes or which are listed on the national register of historic places. Entry on the register requires nomination by

the state historic preservation officer and owner notification in accordance with rules which the board adopts.

10. Accept, on behalf of the state historic preservation officer, applications for classification as historic property received from the county assessor.

11. Adopt rules with regard to classification of historic property including:

(a) Minimum maintenance standards for the property.

(b) Requirements for documentation.

12. Monitor the performance of state agencies in the management of historic properties as provided in chapter 4.2 of this title.

13. Advise the governor on historic preservation matters.

14. Plan and administer a statewide parks and recreation program, including the programs established pursuant to the land and water conservation fund act of 1965 (P.L. 88-578; 78 Stat. 897).

15. Prepare, maintain and update a comprehensive plan for the development of the outdoor recreation resources of this state.

16. Initiate and carry out studies to determine the recreational needs of this state and the counties, cities and towns.

17. Coordinate recreational plans and developments of federal, state, county, city, town and private agencies.

18. Receive applications for projects to be funded through the land and water conservation fund~~,~~ AND the state lake improvement fund ~~and the law enforcement and boating safety fund~~ on behalf of the Arizona outdoor recreation coordinating commission.

19. Provide staff support to the Arizona outdoor recreation coordinating commission.

20. Maintain a statewide off-highway vehicle recreational plan. The plan shall be updated at least once every five years and shall be used by all participating agencies to guide distribution and expenditure of monies under section 28-1176. The plan shall be open to public input and shall include the priority recommendations for allocating available monies in the off-highway vehicle recreation fund established by section 28-1176.

21. Collaborate with the state forester in presentations to legislative committees on issues associated with forest management and wildfire prevention and suppression as provided by section 37-622, subsection B.

B. Notwithstanding section 41-511.11, the board may annually collect and expend monies to plan and administer the land and water conservation fund program, in conjunction with other administrative tasks and recreation plans, as a surcharge to subgrantees in a proportionate amount, not to exceed ten per cent, of the cost of each project. The surcharge monies shall be set aside to fund staff support for the land and water conservation fund program.

C. A partnership fund is established consisting of monies received pursuant to subsection B of this section, monies received from intergovernmental agreements pursuant to title 11, chapter 7, article 3 and

monies received pursuant to section 35-148. The board shall administer the fund monies as a continuing appropriation for the purposes provided in these sections.

D. The state historic preservation officer shall:

1. In cooperation with federal and state agencies, political subdivisions of this state and other persons, direct and conduct a comprehensive statewide survey of historic properties and historic private burial sites and historic private cemeteries and maintain inventories of historic properties and historic private burial sites and historic private cemeteries.

2. Identify and nominate eligible properties to the national register of historic places and the Arizona register of historic places and otherwise administer applications for listing historic properties on the national and state registers.

3. Administer grants-in-aid for historic preservation projects within this state.

4. Advise, assist and monitor, as appropriate, federal and state agencies and political subdivisions of this state in carrying out their historic preservation responsibilities and cooperate with federal and state agencies, political subdivisions of this state and other persons to ensure that historic properties and historic private burial sites and historic private cemeteries are taken into consideration at all levels of planning and development.

5. Develop and make available information concerning professional methods and techniques for the preservation of historic properties and historic private burial sites and historic private cemeteries.

6. Make recommendations on the certification, classification and eligibility of historic properties and historic private burial sites and historic private cemeteries for property tax and investment tax incentives.

E. The state historic preservation officer may:

1. Collect and receive information for historic private burial sites and historic private cemeteries from public and private sources and maintain a record of the existence and location of such burial sites and cemeteries located on private or public lands in this state.

2. Assist and advise the owners of the properties on which the historic private burial sites and historic private cemeteries are located regarding the availability of tax exemptions applicable for such property.

3. Make the records available to assist in locating the families of ~~the person~~ PERSONS buried in the historic private burial sites and historic private cemeteries.

F. For the purposes of this section, "historic private burial sites and historic private cemeteries" means ~~a place~~ PLACES where burials or interments of human remains first occurred more than fifty years ago, that are not available for burials or interments by the public and THAT are not regulated under title 32, chapter 20, article 6.

Sec. 4. Section 41-511.25, Arizona Revised Statutes, is amended to read:

41-511.25. Arizona outdoor recreation coordinating commission; members; powers and duties

A. The Arizona outdoor recreation coordinating commission is established. The commission shall be composed of seven members consisting of the director of the Arizona game and fish department, the director of the Arizona state parks board and five members appointed by the governor. The ex officio members may not serve as officers of the commission. Of the members appointed by the governor three shall be professional full-time parks and recreation department directors of a county, city, or town and no two shall reside in the same county. Two members appointed by the governor shall be from the general public and each shall have broad experience in outdoor recreation. Of the five appointed members, no more than two shall reside in the same county. Each appointed member shall be appointed for a term of three years. Appointed members shall be reimbursed for expenses incurred while attending meetings called by the commission as prescribed by section 38-624.

B. The commission shall:

1. Review statewide outdoor recreation and lake improvement plans and provide comments to the Arizona state parks board.

2. Review budget proposals for the use of land and water conservation fund surcharges and the state lake improvement fund for planning and administration and provide recommendations to the Arizona state parks board.

3. Establish criteria and policies for the equitable distribution of funding, review applications for eligible projects and determine the amount of funding, if any, for each project to be funded from the land and water conservation fund, the state lake improvement fund~~, the law enforcement and boating safety fund~~ and the off-highway vehicle recreation fund.

Sec. 5. Title 41, chapter 6, article 1, Arizona Revised Statutes, is amended by adding section 41-1008.01, to read:

41-1008.01. State agency fee commission; membership; duties; report

A. THE STATE AGENCY FEE COMMISSION IS ESTABLISHED CONSISTING OF THE FOLLOWING MEMBERS:

1. SIX MEMBERS WHO ARE APPOINTED BY THE GOVERNOR, FOUR WHO ARE PRIVATE SECTOR PROFESSIONALS FROM DIVERSE SECTORS WHO REPRESENT ENTITIES THAT ARE LICENSED OR PERMITTED BY THE STATE AND TWO WHO ARE STATE AGENCY EXECUTIVES.

2. THREE MEMBERS OF THE SENATE WHO ARE APPOINTED BY THE PRESIDENT OF THE SENATE, NOT MORE THAN TWO OF WHOM ARE MEMBERS OF THE SAME POLITICAL PARTY.

3. THREE MEMBERS OF THE HOUSE OF REPRESENTATIVES WHO ARE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, NOT MORE THAN TWO OF WHOM ARE MEMBERS OF THE SAME POLITICAL PARTY.

4. THE DIRECTOR OF THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND BUDGETING.

B. THE GOVERNOR SHALL APPOINT ONE MEMBER OF THE COMMISSION AS CHAIRPERSON OF THE COMMISSION. COMMISSION MEMBERS SERVE AT THE PLEASURE OF THAT PERSON'S APPOINTING OFFICER AND ARE NOT ELIGIBLE TO RECEIVE COMPENSATION OR REIMBURSEMENT OF EXPENSES.

C. THE COMMISSION SHALL:

1. REVIEW ALL STATE AGENCIES, EXCEPT THOSE EXEMPTED IN THE COMMISSION BYLAWS, AT LEAST ONCE IN EACH FIVE-YEAR PERIOD, BEGINNING OCTOBER 1, 2011 OR WHENEVER THE COMMISSION DEEMS NECESSARY.

2. ESTABLISH A FEE REVIEW PROCESS OF STATE AGENCIES.

3. ISSUE AN ANNUAL, COMPREHENSIVE REPORT THAT INCLUDES ALL OF THE FOLLOWING:

(a) AN ANALYSIS OF THE FEES ASSESSED BY EACH OF THE REVIEWED AGENCIES. THE ANALYSIS SHALL INCLUDE A COMPARISON OF THIS STATE'S AGENCIES WITH OTHER, SIMILAR AGENCIES IN OTHER SOUTHWESTERN STATES AS WELL AS A COMPARISON WITH NATIONWIDE TRENDS.

(b) AN ANALYSIS OF THE METHODS USED BY AGENCIES TO SET FEES.

(c) AN ANALYSIS OF THE EFFECTS THAT FEES CURRENTLY HAVE ON REGULATED INDUSTRIES, BUSINESSES OR CONSUMER GROUPS FOR EACH AGENCY.

(d) AN ANALYSIS OF THE LONG-TERM SUSTAINABILITY OF THE REGULATED PROGRAM BASED ON ALL FUND SOURCES.

(e) A LIST OF AGENCIES TO BE REVIEWED IN THE FOLLOWING YEAR.

(f) AN ANALYSIS OF THE EFFECTS RECENT BUDGET REDUCTIONS AND FUND TRANSFERS HAVE HAD ON AGENCIES.

D. AT ITS FIRST MEETING, THE COMMISSION SHALL ADOPT BYLAWS TO GOVERN ISSUES RELATED TO THE CONDUCT OF THE COMMISSION BUSINESS AND POTENTIAL CONFLICTS OF INTEREST.

E. AGENCIES SELECTED FOR REVIEW BY THE COMMISSION SHALL COOPERATE WITH THE COMMISSION AND SHALL PROVIDE INFORMATION AS REQUESTED BY THE COMMISSION.

F. THE COMMISSION MAY USE THE SERVICES OF THE STAFF OF THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND BUDGETING AS REQUIRED.

G. ON OR BEFORE DECEMBER 31, 2011, THE COMMISSION SHALL SUBMIT ITS FIRST ANNUAL REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. THE COMMISSION SHALL PROVIDE A COPY OF THE REPORT TO THE SECRETARY OF STATE.

Sec. 6. Delayed repeal

Section 41-1008.01, Arizona Revised Statutes, as added by this act, is repealed from and after September 30, 2016.

Sec. 7. Laws 2011, chapter 35, section 10 is amended to read:

Sec. 10. Racing and boxing fees; increases; exemption from rule making

A. It is the intent of the legislature that fees be in amounts sufficient to support the mission of the department of racing and that the additional revenue generated by any fee increases pursuant to sections 5-104

and 5-230, Arizona Revised Statutes, ~~as amended by this act,~~ shall not exceed ~~$1,042,000~~ $1,442,000 in fiscal year 2011-2012 and ~~$2,062,000~~ $2,562,000 beginning in fiscal year 2012-2013.

B. The Arizona department of racing is exempt from the rule making requirements of title 41, chapter 6, Arizona Revised Statutes, for the purpose of establishing fees pursuant to sections 5-104 and 5-230, Arizona Revised Statutes, ~~as amended by this act,~~ until July 1, 2012.

Sec. 8. Appropriation; department of racing; state lake improvement fund

A. The sum of $400,000 is appropriated from the racing regulation fund established by section 5-113.01, Arizona Revised Statutes, in fiscal year 2011-2012 to the department of racing to be used to meet general operating expenditures.

B. The department of racing shall transfer $1,000 of the amount appropriated pursuant to subsection A of this section to the Arizona state parks board for deposit in the state lake improvement fund established by section 5-382, Arizona Revised Statutes.

Sec. 9. Effective date

Sections 5-382, 5-383, 41-511.04 and 41-511.25, Arizona Revised Statutes, as amended by this act, are effective from and after June 30, 2012.

APPROVED BY THE GOVERNOR APRIL 29, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 29, 2011.

Passed the House March 14, 20 11

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting

Speaker of the House

Cheryl Laube
Chief Clerk of the House

Passed the Senate April 19, 20 11

by the following vote: 27 Ayes,

3 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

Secretary to the Governor

Approved this _____day of

_____

at _____o'clock _____M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

Secretary of State

H.B. 2314

HOUSE CONCURS IN SENATE AMENDMENTS AND FINAL PASSAGE

April 20, 2011,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

20 day of April, 2011,

at 8:30 o'clock A. M.

Nicole Bendle

Secretary to the Governor

Approved this 29th day of

April, 2011,

at 9:58 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 29th day of April, 2011,

at 7:30 o'clock P. M.

Ken Bennett

Secretary of State

H.B. 2314