Senate Engrossed

FILED

KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 247

SENATE BILL 1104

AN ACT

AMENDING SECTION 41-108, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO THE JOINT BORDER SECURITY ADVISORY COMMITTEE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 41-108, Arizona Revised Statutes, is amended to read:

41-108. Interstate compact to build border fence; requirements; joint border security advisory committee; trust fund

A. The governor may enter into a compact with other states to provide for the construction and maintenance of a secure fence along the Arizona-Mexico border line that is located on private, state or federal property if permitted. The governor may enter into such a compact as part of any broader compact relating to the same or similar issue. A compact entered into pursuant to this section shall contain at least the following:

1. A provision making it available for joinder by all states.

2. A provision for withdrawal from the compact on written notice to the parties no sooner than one year after the date of the notice.

3. A provision for the establishment of an organization:

(a) To administer and manage the construction and maintenance of the border fence.

(b) To administer any monies obtained for the construction and maintenance of the border fence.

4. A provision that provides for a state to develop the state's own funding mechanism to construct and maintain the border fence through private or public donations from whatever source and that is administered by the organization established pursuant to paragraph 3 of this subsection.

5. A requirement that a state use correctional inmates as well as private contractors to construct and maintain the border fence.

6. The option to construct and maintain the secure fence on state or federal land.

7. Other provisions necessary to implement the compact.

B. If this state does not enter into the compact authorized by subsection A of this section, this state may still construct and maintain a secure fence along the Arizona-Mexico border line that is located on private, state or federal property if permitted. Subsection A, ~~paragraphs~~ PARAGRAPH 4, REGARDING DEVELOPING THE STATE'S OWN FUNDING MECHANISM, AND PARAGRAPHS 5 and 6 of this section apply to the border fence.

C. The joint border security advisory committee is established consisting of the following members:

1. The president of the senate or the president's designee as a nonvoting member.

2. The speaker of the house of representatives or the speaker's designee as a nonvoting member.

3. Two members of the house of representatives who are appointed by the speaker of the house of representatives as nonvoting members.

4. Two members of the senate who are appointed by the president of the senate as nonvoting members.

5. Six members who are appointed by the governor.

6. A county sheriff from a county that has a population of more than three million persons.

7. A county sheriff from a county that has a population of more than three hundred thousand persons but less than six hundred thousand persons.

8. A county sheriff from a county that is located along the Arizona-Mexico border and that has a population of more than one hundred thousand persons but less than one hundred fifty thousand persons.

9. A county sheriff from a county that is located along the Arizona-Mexico border and that has a population of at least one hundred fifty thousand persons but less than six hundred thousand persons.

D. Committee members are not eligible to receive compensation OR REIMBURSEMENT OF EXPENSES for committee activities ~~but may be eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2~~.

E. The president and the speaker of the house of representatives shall each appoint a cochairperson of the committee.

F. The committee shall meet on the call of the two cochairpersons, but no more frequently than monthly.

G. The committee may:

1. Take testimony and other evidence regarding the international border with Mexico.

2. Analyze border crossing statistics.

3. Analyze related crime statistics.

4. Make recommendations designed to increase border security.

5. Administer and manage the construction and maintenance of the border fence.

6. Make other recommendations deemed essential by the committee.

H. The committee may use the services of legislative staff as required.

I. Beginning November 30, 2011 and each month thereafter, the committee shall submit a written report of its findings and recommendations to the speaker of the house of representatives, the president of the senate and the governor. The committee shall provide a copy of the report to the secretary of state.

J. Notwithstanding any law to the contrary, the committee may vote to go into executive session to take testimony or evidence it considers sensitive or confidential in nature, which if released could compromise the security or safety of law enforcement or military personnel or a law enforcement or national guard law enforcement support operation.

K. The border security trust fund is established consisting of monies collected pursuant to this section. The state treasurer shall administer the trust fund as trustee for the purposes of the compact entered into pursuant to subsection A of this section or for the purposes of subsection B of this section. The compact entered into pursuant to subsection A of this section or the border fence pursuant to subsection B of this section is the

beneficiary of the trust fund. All monies in the trust fund shall be used exclusively to carry out the purposes of this section. The state treasurer shall accept, separately account for and hold in trust any monies deposited in the state treasury, which are considered to be trust monies as defined in section 35-310 and which shall not be commingled with any other monies in the state treasury except for investment purposes. The state treasurer shall invest and divest any trust fund monies deposited in the state treasury as provided by sections 35-313 and 35-314.03, and monies earned from investment shall be credited to the trust fund. Monies in the trust fund are subject to legislative appropriation and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

Sec. 2. Appropriations; border fence; exemption

A. All monies received by the border security trust fund established by section 41-108, Arizona Revised Statutes, in fiscal years 2011-2012 and 2012-2013 are appropriated to the joint border security advisory committee for the purposes of administering and managing the construction and maintenance of the border fence.

B. The appropriations made in subsection A of this section are exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations.

Sec. 3. 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 APRIL 11, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 12, 2012.

Passed the House April 5, 2012, by the following vote: 40 Ayes, 19 Nays, 1 Not Voting with Emergency

Speaker of the House

Cheryl Laube
Chief Clerk of the House

Passed the Senate February 28, 2012, by the following vote: 21 Ayes, 9 Nays, 0 Not Voting with Emergency

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this 9 day of April, 2012, at 1:45 o'clock P M.

Secretary to the Governor

Approved this 11th day of April, 2012 at 2:40 o'clock P M.

Janice K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State this 12th day of April, 2012, at 8:07 o'clock a M.

Secretary of State

S.B. 1104