House Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

CHAPTER 205

HOUSE BILL 2103

AN ACT

AMENDING SECTIONS 26-261 AND 26-262, ARIZONA REVISED STATUTES; RELATING TO THE MILITARY AFFAIRS COMMISSION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 26-261, Arizona Revised Statutes, is amended to read:

26-261. Military affairs commission; confidential discussions and information; definition

A. The military affairs commission is established. ~~Through December 31, 2010, the commission membership consists of the following members:~~

~~1. Three members who are appointed by the president of the senate, who serve at the pleasure of the president of the senate and who include the following:~~

~~(a) One member who is knowledgeable in military affairs and who represents the long-term interests of a military installation.~~

~~(b) One member who represents private property interests in the territory in the vicinity as defined in section 28-8461.~~

~~(c) One member who represents the interests of a city, town or county.~~

~~2. Three members who are appointed by the speaker of the house of representatives, who serve at the pleasure of the speaker of the house of representatives and who include the following:~~

~~(a) One member who is knowledgeable in military affairs and who represents the long-term interests of a military installation.~~

~~(b) One member who represents private property interests in the territory in the vicinity as defined in section 28-8461.~~

~~(c) One member who represents the interests of a city, town or county.~~

~~3. Nine members who are appointed by the governor, who serve at the pleasure of the governor and who include the following:~~

~~(a) Three members who are knowledgeable in military affairs and who represent the long-term interests of a military installation.~~

~~(b) Three members who represent private property interests in the territory in the vicinity as defined in section 28-8461.~~

~~(c) Three members who represent the interests of a city, town or county.~~

~~B. From and after December 31, 2010,~~ The commission membership consists of:

1. ~~Thirteen~~ SIXTEEN members who are appointed by the governor and who include the following:

(a) ~~Ten~~ TWELVE members who reside in a community in which a military installation is located. Of this group, ~~five~~ SIX members shall have expertise in military affairs and ~~five~~ SIX members shall be local elected officials.

(b) ~~Three~~ FOUR members who represent private property interests in the territory in the vicinity as defined in section 28-8461 OR IN A COMMUNITY IN WHICH A MILITARY INSTALLATION IS LOCATED.

2. One member who represents private property interests in the territory in the vicinity as defined in section 28-8461 OR IN A COMMUNITY IN WHICH A MILITARY INSTALLATION IS LOCATED and who is appointed by the president of the senate.

3. One member who represents private property interests in the territory in the vicinity as defined in section 28-8461 OR IN A COMMUNITY IN WHICH A MILITARY INSTALLATION IS LOCATED and who is appointed by the speaker of the house of representatives.

4. Four nonvoting advisory members who are not counted for the purpose of determining a quorum consisting of:

(a) The adjutant general or a designee of the adjutant general.

(b) A representative ~~from~~ OF a military installation commander who is appointed by the governor.

(c) A representative from a federal agency involved in land use issues who is appointed by the governor.

(d) The state land commissioner or a designee of the commissioner.

~~C.~~ B. The military affairs commission shall have geographic diversity in its membership. The governor shall designate two of the governor's appointees as cochairpersons of the commission. Members or designees of the commission shall not send alternates to represent them at commission meetings. The voting members shall serve six-year terms.

~~D.~~ C. The department of emergency and military affairs shall staff the commission.

~~E.~~ D. The commission shall:

1. Meet at least annually.

2. Meet on a regular basis with the governor, the president of the senate and the speaker of the house of representatives, either individually or collectively, to provide recommendations on military issues and report on the progress of the military affairs commission.

3. Annually meet with the appropriate legislative committees that have jurisdiction over military installations.

4. Advise the governor and the legislature on matters affecting the operational viability of Arizona military facilities, including military installations, military training routes, military restricted airspace, military ranges or areas under the jurisdiction of an active unit of the uniformed armed services of the United States or any reserve or national guard component of the uniformed armed services of the United States.

5. Develop criteria, including accountability requirements, for awarding monies from the military installation fund established by section 26-262.

6. Review applications for monies to be awarded from the military installation fund.

7. Annually recommend to the department of emergency and military affairs a priority listing of monies with available resources.

8. Recommend to the department of emergency and military affairs how the monies in the military installation fund should be awarded.

9. Proactively assist with coordination among the United States military operating in Arizona, the congressional delegation, the governor, the state legislature and state and local leaders.

10. Recommend executive, legislative and federal actions necessary to sustain military operations and enhance the state's preparedness to respond to potential new missions and prevent military facilities from closure or downsizing.

11. Study issues relating to veterans, active duty, national guard and reserve members of the United States armed forces and other military quality of life issues.

E. DISCUSSIONS THAT ARE RELATED TO THE FEDERAL GOVERNMENT'S PROCESS TO DETERMINE THE CLOSURE, REALIGNMENT, RELOCATION, EXPANSION OR FORCED STRUCTURE REDUCTION OF MILITARY INSTALLATIONS AND TO PROPRIETARY ALTERNATIVES TO THIS STATE'S MILITARY BASE CLOSURE OR REALIGNMENT STRATEGIES ARE NOT SUBJECT TO TITLE 38, CHAPTER 3, ARTICLE 3.1.

F. INFORMATION THAT IS DEVELOPED OR OBTAINED BY THE COMMISSION THAT PERTAINS TO PROPRIETARY STRATEGIES OF THE COMMISSION OR THAT IS RELATED TO THE RELOCATION OF MILITARY UNITS IS CONFIDENTIAL AND IS NOT SUBJECT TO TITLE 39, CHAPTER 1, INCLUDING DOCUMENTS RELATED TO THE FEDERAL GOVERNMENT'S PROCESS TO DETERMINE THE CLOSURE, REALIGNMENT, RELOCATION, EXPANSION OR FORCED STRUCTURE REDUCTION OF MILITARY INSTALLATIONS UNTIL THE FEDERAL GOVERNMENT HAS ISSUED A FINAL, UNAPPEALABLE DECISION IN THAT PROCESS OR, IN THE EVENT OF LITIGATION, A COURT OF COMPETENT JURISDICTION HAS ENTERED A FINAL, UNAPPEALABLE ORDER REGARDING THE CLOSURE, REALIGNMENT, RELOCATION, EXPANSION OR FORCED STRUCTURE REDUCTION OF THE MILITARY INSTALLATIONS. IF THE COMMISSION ENTERS INTO A CONFIDENTIALITY AGREEMENT WITH A THIRD PARTY, THE COMMISSION MAY DISCLOSE INFORMATION THAT IS DEEMED CONFIDENTIAL PURSUANT TO THIS SUBSECTION TO THAT THIRD PARTY.

~~F.~~ G. For the purposes of this section, "military installation" means a military airport or ancillary military facility as defined in section 28-8461 or any real property that services, supports or is used by the military.

Sec. 2. Section 26-262, Arizona Revised Statutes, is amended to read:

26-262. <u>Military installation fund; report; definition</u>

A. The military installation fund is established consisting of revenues made available to the fund from any lawful source. The adjutant general shall administer the fund. On notice from the adjutant general, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund. The fund is exempt from the provisions of section 35-190 relating to lapsing of appropriations.

B. Monies in the fund are continuously appropriated for the purposes of this section.

C. The department of emergency and military affairs, in conjunction with the military affairs commission established by section 26-261, shall adopt by rule procedures for receiving and evaluating applications and awarding the monies as provided by subsection G of this section. If applications for monies exceed the amount available in the fund, the

department may request applicants to reduce the amount of the applications or deny or award reduced amounts.

D. The department shall receive each application for fund monies and shall forward each application to the military affairs commission. The military affairs commission shall review each application and recommend to the department both of the following:

1. Each applicant that should be awarded monies from the fund.

2. The dollar amount that each applicant listed pursuant to paragraph 1 of this subsection should be awarded from the fund.

E. The department shall consider the military affairs commission's recommendations and shall decide how the monies in the fund shall be awarded among the applicants. The department, after reviewing the recommendations by the military affairs commission, shall make the monies in the fund available for the purpose of military installation preservation and enhancement projects. Except as provided in subsection F of this section, after the department makes an award decision the department shall award the monies.

F. If the department does not comply with the military affairs commission's recommendation for the awards, within five days after the department's decision the department shall report in writing to the military affairs commission, the president of the senate, the speaker of the house of representatives and the governor. The report shall include the award decision of the department and the recommendation of the military affairs commission. The department shall not distribute monies from the fund to the applicants for at least sixty days after the report is received.

G. The department shall:

1. Award eighty ~~per cent~~ PERCENT of the monies in the fund for the following purposes, except that up to twenty ~~per cent~~ PERCENT of this amount may be awarded to cities, towns and counties for the purpose of acquiring private land for the purposes prescribed in paragraph 2 of this subsection:

(a) Acquisition of private property for the purpose of preserving a military installation.

(b) Acquisition of real estate and rights to real estate and otherwise preserving real estate from development or mitigating impacts on development in high noise or accident potential zones as defined in section 28-8461 and in areas as required to support a military installation.

(c) Acquisition of real estate, property rights and related infrastructure that is vital to the preservation or enhancement of a military installation.

(d) Structural renovations or construction of building modifications or improvements that mitigate or attenuate impacts in high noise or accident potential zones.

(e) Removal of structures or improvements that are necessary for acquisition of private property for the purpose of preserving a military installation.

(f) Management of acquired property that is necessary to preserve and enhance military missions and military installations.

2. Except as provided by subsection L of this section, award twenty ~~per cent~~ PERCENT of the monies in the fund to cities, towns and counties for:

(a) Military installation preservation and enhancement projects or analytical reports or studies that are requested by federal or state agencies or military facilities in this state.

(b) Investment in or construction of capital improvements or infrastructure for the purpose of preserving a military installation.

(c) Structural renovations or construction of building modifications or improvements that mitigate or attenuate impacts in high noise or accident potential zones.

(d) Removal of structures or improvements that are necessary for acquisition of private property for the purpose of preserving a military installation.

(e) Management of acquired property that is necessary to preserve and enhance military missions and military installations.

H. The legislature shall review the distribution formula prescribed in subsection G of this section at least once every four years.

I. Monies in the fund may be awarded for debt service on bonds issued by a political subdivision for the purpose of acquisition of private property for the purpose of preserving a military airport or ancillary military facility as defined in section 28-8461 if the land acquisition occurs after December 31, 2004.

J. The department shall annually report the awards made pursuant to this section. The report shall be in writing and shall be sent to the president of the senate, the speaker of the house of representatives and the governor. The department shall send a copy of this report to the secretary of state.

K. The department of emergency and military affairs may transfer any real estate, property rights and related infrastructure that are acquired pursuant to this section to any other governmental agency for the purposes of preserving or enhancing military installations in this state.

L. If monies remain after the award of monies pursuant to subsection G, paragraph 2 of this section, the department may use ~~these~~ THE remaining monies for EITHER OF THE FOLLOWING:

1. The purposes prescribed in subsection G, paragraph 1 of this section.

2. PROJECTS OR STUDIES NECESSARY TO PRESERVE OR ENHANCE MILITARY MISSIONS AND MILITARY INSTALLMENTS IN THIS STATE.

M. Any agency of this state may accept title to and manage real estate, property rights and related infrastructure that are acquired pursuant to this section.

N. For the purposes of this section, "military installation" has the same meaning prescribed in section 26-261.

APPROVED BY THE GOVERNOR APRIL 6, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 7, 2015.

Passed the House March 3, 20 15

by the following vote: 60 Ayes,

0 Nays, 0 Not Voting

Speaker of the House

☐ Pro Tempore

Chief Clerk of the House

Passed the Senate March 31, 20 15

by the following vote: 29 Ayes,

0 Nays, 1 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 April, 20 15

at 11:19 o'clock A. M.

Secretary to the Governor

Approved this 6th day of

April

at 2:02 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 7th day of April, 20 15

at 8:30 o'clock A M.

Secretary of State

H.B. 2103