

House Engrossed Senate Bill

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

FILED
MICHELE REAGAN
SECRETARY OF STATE

CHAPTER 114

SENATE BILL 1501

AN ACT

AMENDING SECTIONS 41-1502, 41-1504 AND 41-1545.04, ARIZONA REVISED STATUTES; REPEALING SECTION 41-3016.29, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3018.01; RELATING TO THE ARIZONA COMMERCE AUTHORITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-1502, Arizona Revised Statutes, is amended to
3 read:

4 41-1502. Arizona commerce authority; board of directors;
5 conduct of office; audit

6 A. The Arizona commerce authority is established. The mission of the
7 authority is to provide private sector leadership in growing and diversifying
8 the economy of this state, creating high quality employment in this state
9 through expansion, attraction and retention of businesses and marketing this
10 state for the purpose of expansion, attraction and retention of businesses.

11 B. The authority shall be governed by a board of directors consisting
12 of:

13 1. The governor, who serves as chairperson.

14 2. The chief executive officer.

15 3. Seventeen private sector business leaders who are chief executive
16 officers of private, for-profit enterprises. None of these members may be an
17 elected official of any government entity. These members must be appointed
18 from geographically diverse areas of this state and not all from the same
19 county. These members shall serve staggered three-year terms of office
20 beginning and ending on the third Monday in January. These members shall be
21 appointed as follows:

22 (a) Nine members who are appointed by the governor.

23 (b) Four members who are appointed by the president of the senate.

24 (c) Four members who are appointed by the speaker of the house of
25 representatives.

26 4. The following as ex officio members without the power to vote:

27 (a) The president of the senate.

28 (b) The speaker of the house of representatives.

29 (c) The president of the Arizona board of regents.

30 (d) The president of each state university under the jurisdiction of
31 the Arizona board of regents.

32 (e) One president of a community college who is appointed by a
33 statewide organization of community college presidents.

34 (f) The chairperson of the governor's council on small business, or
35 its successor.

36 (g) The chairperson of the governor's council on workforce policy, if
37 established by executive order pursuant to section 41-1542.

38 (h) One member of the rural business development advisory council
39 established by section 41-1505 who is appointed by the governor.

40 (i) The president of a statewide organization of incorporated cities
41 and towns who is appointed by the governor.

42 (j) The president of a statewide organization of county boards of
43 supervisors who is appointed by the governor.

1 C. The following shall serve as technical advisors to the board to
2 enhance collaboration among state agencies to meet infrastructure needs and
3 facilitate growth opportunities throughout this state:

- 4 1. The director of environmental quality.
- 5 2. The state land commissioner.
- 6 3. The director of the department of revenue.
- 7 4. The director of the office of tourism.
- 8 5. The director of the department of transportation.
- 9 6. The director of water resources.
- 10 7. The director of the department of financial institutions.
- 11 8. The director of the Arizona-Mexico commission in the governor's
12 office.

13 D. The governor shall appoint a cochairperson of the board of
14 directors from among the voting members. The board may establish an
15 executive committee consisting of the chairperson, the cochairperson, the
16 chief executive officer, and additional voting members of the board elected
17 by the board. The chairperson may appoint subcommittees as necessary.

18 E. The board may request assistance from representatives of other
19 state agencies to maximize economic development opportunities by leveraging
20 their access to strategic assets and planning processes.

21 F. Board members serve without compensation but are eligible for
22 reimbursement of expenses pursuant to section 41-1504, subsection E,
23 paragraph 1.

24 G. A majority of the voting members, which must include the
25 chairperson and the chief executive officer, constitute a quorum for the
26 purpose of an official meeting for conducting business. An affirmative vote
27 of a majority of the members present at an official meeting is sufficient for
28 any action to be taken.

29 H. The board of directors shall keep and maintain a complete and
30 accurate record of all of its proceedings. Public access to the board's
31 records is subject to section 41-1504, subsection L.

32 I. The board of directors, executive committee, subcommittees and
33 advisory councils are subject to title 38, chapter 3, article 3.1, relating
34 to public meetings, except as follows:

35 1. In addition to section 38-431.03, the board of directors, executive
36 committee and subcommittees may meet in executive session for discussion
37 about potential business development opportunities and strategies, which, if
38 made public, could potentially harm the applicant's, the potential
39 applicant's or this state's competitive position.

40 2. Social and travel events related to the expansion, attraction and
41 retention of businesses are not public meetings if no legal action involving
42 a final vote or decision is taken.

43 3. Activities and events held in public for the purpose of announcing
44 the expansion, attraction and retention of projects are not public meetings.

1 J. The board of directors and the officers and employees of the
2 authority are subject to title 38, chapter 3, article 8, relating to
3 conflicts of interest.

4 K. The board of directors shall adopt written policies, procedures and
5 guidelines for standards of conduct, including a gift policy, for members of
6 the board and for officers and employees of the authority.

7 L. THE COMPENSATION OF ALL OFFICERS AND EMPLOYEES IS CONSIDERED A
8 PUBLIC RECORD PURSUANT TO TITLE 39, CHAPTER 1.

9 ~~L.~~ M. The authority shall operate on the state fiscal year. The
10 board of directors shall cause an annual audit to be conducted on or before
11 October 31 of each of the authority's public funds established by this
12 chapter by an independent certified public accountant. The board shall
13 immediately file a certified copy of the audit with the auditor general. The
14 auditor general may make such further audits and examinations as necessary
15 and may take appropriate action relating to the audit or examination pursuant
16 to chapter 7, article 10.1 of this title. If the auditor general takes no
17 further action within thirty days after the audit is filed, the audit is
18 considered to be sufficient.

19 ~~M.~~ N. All state agencies shall cooperate with the authority and make
20 available data pertaining to the functions of the authority as requested by
21 the authority.

22 Sec. 2. Section 41-1504, Arizona Revised Statutes, is amended to read:
23 41-1504. Powers and duties; e-verify requirement

24 A. The board of directors, on behalf of the authority, may:

- 25 1. Adopt and use a corporate seal.
- 26 2. Sue and be sued.

27 3. Enter into contracts as necessary to carry out the purposes and
28 requirements of this chapter, including intergovernmental agreements pursuant
29 to title 11, chapter 7, article 3 and interagency service agreements as
30 provided by section 35-148.

31 4. Lease real property and improvements to real property for the
32 purposes of the authority. Leases by the authority are exempt from chapter
33 4, article 7 of this title, relating to management of state properties.

34 5. Employ or retain legal counsel and other consultants as necessary
35 to carry out the purposes of the authority.

36 6. Develop and use written policies, procedures and guidelines for the
37 terms and conditions of employing officers and employees of the authority and
38 may include background checks of appropriate personnel.

39 B. The board of directors, on behalf of the authority, shall:

40 1. Develop comprehensive long-range strategic economic plans for this
41 state and submit the plans to the governor.

42 2. Annually update a strategic economic plan for submission to the
43 governor.

1 3. Accept gifts, grants and loans and enter into contracts and other
2 transactions with any federal or state agency, municipality, private
3 organization or other source.

4 C. The authority shall:

5 1. Assess and collect fees for processing applications and
6 administering incentives. The board shall adopt the manner of computing the
7 amount of each fee to be assessed. Within thirty days after proposing fees
8 for adoption, the chief executive officer shall submit a schedule of the fees
9 for review by the joint legislative budget committee. It is the intent of
10 the legislature that a fee shall not exceed one ~~per-cent~~ PERCENT of the
11 amount of the incentive.

12 2. Determine and collect registry fees for the administration of the
13 allocation of federal tax exempt industrial development bonds and student
14 loan bonds authorized by the authority. Such monies collected by the
15 authority shall be deposited, pursuant to sections 35-146 and 35-147, in an
16 authority bond fund. Monies in the fund shall be used, subject to annual
17 appropriation by the legislature, by the authority to administer the
18 allocations provided in this paragraph and are exempt from the provisions of
19 section 35-190 relating to the lapsing of appropriations.

20 3. Determine and collect security deposits for the allocation, for the
21 extension of allocations and for the difference between allocations and
22 principal amounts of federal tax exempt industrial development bonds and
23 student loan bonds authorized by the authority. Security deposits forfeited
24 to the authority shall be deposited in the state general fund.

25 4. At the direction of the board, establish and supervise the
26 operations of full-time or part-time offices in other states and foreign
27 countries for the purpose of expanding direct investment and export trade
28 opportunities for businesses and industries in this state if, based on
29 objective research, the authority determines that the effort would be
30 beneficial to the economy of this state.

31 5. Establish a program by which entrepreneurs become aware of permits,
32 licenses or other authorizations needed to establish, expand or operate in
33 this state.

34 6. Be the state registration agency for apprenticeship functions
35 prescribed by the federal government.

36 7. POST ON ITS WEBSITE ON AN ANNUAL BASIS A REPORT CONTAINING AT LEAST
37 THE FOLLOWING INFORMATION:

38 (a) THE CUMULATIVE PROGRESS MADE TOWARD ITS GOALS FOR JOB CREATION,
39 CAPITAL INVESTMENT AND HIGHER AVERAGE WAGES.

40 (b) TO THE EXTENT NOT PROHIBITED BY LAW, INFORMATION ON EACH INCENTIVE
41 APPLICATION APPROVED BY THE AUTHORITY IN THE FISCAL YEAR, INCLUDING THE
42 AMOUNT OF THE INCENTIVE APPROVED OR AWARDED AND THE APPLICANT'S ACTIVITY THAT
43 IS PROJECTED OR HAS BEEN ACHIEVED, WHICHEVER IS APPLICABLE, TO QUALIFY FOR
44 THE INCENTIVE.

1 8. DEVELOP AND IMPLEMENT WRITTEN POLICIES AND PROCEDURES RELATING TO
2 THE ADMINISTRATION OF GRANTS FROM THE ARIZONA COMPETES FUND ESTABLISHED BY
3 SECTION 41-1545.01, INCLUDING THE FOLLOWING ELEMENTS:

- 4 (a) PROCEDURES FOR DOCUMENTING GRANTEE SELECTION AND DUE DILIGENCE.
5 (b) PROCEDURES FOR VERIFICATION OF INFORMATION SUBMITTED BY GRANTEES.
6 (c) PROCEDURES FOR EVALUATING REQUESTS TO AMEND GRANT TERMS AND FOR
7 DOCUMENTING DECISIONS RELATING TO THOSE REQUESTS.

8 D. The authority, through the chief executive officer, may:

9 1. Contract and incur obligations reasonably necessary or desirable
10 within the general scope of the authority's activities and operations to
11 enable the authority to adequately perform its duties.

12 2. Use monies, facilities or services to provide matching
13 contributions under federal or other programs that further the objectives and
14 programs of the authority.

15 3. Accept gifts, grants, matching monies or direct payments from
16 public or private agencies or private persons and enterprises for the conduct
17 of programs that are consistent with the general purposes and objectives of
18 this chapter.

19 4. Assess business fees for promotional services provided to
20 businesses that export products and services from this state. The fees shall
21 not exceed the actual costs of the services provided.

22 5. Establish and maintain one or more accounts in banks or other
23 depositories, for public or private monies of the authority, from which
24 operational activities, including payroll, vendor and grant payments, may be
25 conducted. Individual funds that are established by law under the
26 jurisdiction of the authority may be maintained in separate accounts in banks
27 or other depositories, but shall not be commingled with any other monies or
28 funds of the authority.

29 E. The chief executive officer shall:

30 1. Hire employees and prescribe the terms and conditions of their
31 employment as necessary to carry out the purposes of the authority. The
32 board of directors shall adopt written policies, procedures and guidelines,
33 similar to those adopted by the department of administration, regarding
34 officer and employee compensation, observed holidays, leave and reimbursement
35 of travel expenses and health and accident insurance. The officers and
36 employees of the authority are exempt from any laws regulating state
37 employment, including:

38 (a) Chapter 4, articles 5 and 6 of this title, relating to state
39 service.

40 (b) Title 38, chapter 4, article 1 and chapter 5, article 2, relating
41 to state personnel compensation, leave and retirement.

42 (c) Title 38, chapter 4, article 2, relating to reimbursement of state
43 employee expenses.

44 (d) Title 38, chapter 4, article 4, relating to health and accident
45 insurance.

1 projects currently being funded from the Arizona competes fund. The
2 authority shall provide a copy of the report to the secretary of state AND
3 POST A COPY ON THE AUTHORITY'S WEBSITE. The report shall include:

- 4 1. THE NAME OF EACH GRANT RECIPIENT.
- 5 ~~1.~~ 2. The number of direct jobs each GRANT recipient committed to
6 create in this state IN CONNECTION WITH THE GRANT.
- 7 ~~2.~~ 3. The number of direct jobs each GRANT recipient actually created
8 in this state IN CONNECTION WITH THE GRANT.
- 9 ~~3.~~ ~~The median wage of the jobs each recipient created in this state.~~
- 10 4. THE NUMBER OF DIRECT JOBS EACH GRANT RECIPIENT ACTUALLY CREATED IN
11 COMPARISON TO THE NUMBER OF JOBS THAT THE RECIPIENT COMMITTED TO CREATE IN
12 THE STATE IN CONNECTION WITH THE GRANT.
- 13 5. THE AVERAGE ANNUAL WAGE EACH GRANT RECIPIENT COMMITTED TO PAY FOR
14 THE DIRECT JOBS ASSOCIATED WITH THE GRANT.
- 15 6. THE AVERAGE ANNUAL WAGE EACH GRANT RECIPIENT ACTUALLY PAYS FOR THE
16 DIRECT JOBS ASSOCIATED WITH THE GRANT.
- 17 ~~4.~~ 7. The amount of capital investment each GRANT recipient committed
18 to spend or allocate IN CONNECTION WITH THE GRANT, INCLUDING ANY INVESTMENTS
19 BY THIRD PARTY DEVELOPERS OF BUILD TO SUIT FACILITIES, per project in this
20 state.
- 21 ~~5.~~ 8. The amount of capital investment each GRANT recipient actually
22 spent or allocated ~~per project in this state~~ IN CONNECTION WITH THE GRANT.
- 23 ~~6.~~ 9. The total amount of grants made to each recipient.
- 24 ~~7.~~ 10. The average amount of money granted from the Arizona competes
25 fund for each job created in this state by grant recipients.
- 26 ~~8.~~ 11. The number of jobs created in this state by grant recipients
27 in each sector of the North American industry classification system.
- 28 ~~9.~~ 12. Of the number of direct jobs each recipient created in this
29 state, the ~~number of positions created that provide health benefits for~~
30 ~~employees~~ PERCENTAGE OF THE HEALTH INSURANCE PREMIUM OR MEMBERSHIP COST
31 OFFERED BY THE RECIPIENT TO EMPLOYEES.
- 32 13. THE TOTAL AMOUNT OF GRANTS ISSUED BY THE AUTHORITY SINCE THE LAST
33 ANNUAL REPORT.

34 B. The report shall not include information that is made confidential
35 by law.

36 C. The authority may require grant recipients to submit information in
37 a form required to complete the report.

38 Sec. 4. Repeal

39 Section 41-3016.29, Arizona Revised Statutes, is repealed.

40 Sec. 5. Title 41, chapter 27, article 2, Arizona Revised Statutes, is
41 amended by adding section 41-3018.01, to read:

42 41-3018.01. Arizona commerce authority; termination July 1,
43 2018

44 A. THE ARIZONA COMMERCE AUTHORITY TERMINATES ON JULY 1, 2018.

45 B. TITLE 41, CHAPTER 10 IS REPEALED ON JANUARY 1, 2019.

1 Sec. 6. Purpose

2 Pursuant to section 41-2955, subsection B, Arizona Revised Statutes,
3 the legislature continues the Arizona commerce authority to facilitate the
4 beneficial economic growth and development of this state and to promote
5 prosperity through the development and protection of the legitimate interests
6 of Arizona business, industry and commerce within and outside this state.

7 Sec. 7. Retroactivity

8 Sections 4 and 5 of this act are effective retroactively to July 1,
9 2016.

APPROVED BY THE GOVERNOR MAY 6, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2016.

Passed the House April 7, 2016,

Passed the Senate February 25, 2016,

by the following vote: 51 Ayes,

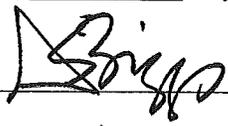
by the following vote: 28 Ayes,

5 Nays, 4 Not Voting

0 Nays, 2 Not Voting



Speaker of the House
Pro Tempore



President of the Senate



Chief Clerk of the House



Secretary of the Senate

~~EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR~~

~~This Bill was received by the Governor this
_____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary to the Governor~~

~~Approved this _____ day of
_____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Governor of Arizona~~

~~EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE~~

~~This Bill was received by the Secretary of State
this _____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary of State~~

S.B. 1501

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate May 4, 2016

by the following vote: 27 Ayes,

2 Nays, 1 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this
4th day of May, 2016

at 4:26 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 6th day of

May

at 3:35 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 6th day of May, 2016

at 5:21 o'clock P. M.

[Signature]
Secretary of State

S.B. 1501