Senate Engrossed House Bill

FILED
JANICE K. BREWER
SECRETARY OF STATE

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House of Representatives
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CHAPTER 160

HOUSE BILL 2076

AN ACT

AMENDING SECTIONS 35-101 AND 35-142, ARIZONA REVISED STATUTES; RELATING TO PUBLIC FINANCES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 35-101, Arizona Revised Statutes, is amended to read:

35-101. Definitions

In this chapter, unless the context otherwise requires:

1. "Allotment" means the allocation of an appropriation or other fund source over a full fiscal year within a budget program or expenditure class.

2. "Annual budget unit" means the following agencies:

(a) The department of education.

(b) The Arizona board of regents.

(c) Arizona state university.

(d) Arizona state university west campus.

(e) Arizona state university east campus.

(f) The university of Arizona.

(g) Northern Arizona university.

(h) The state board of directors for community colleges.

(i) The school facilities board.

(j) The department of economic security.

(k) The state department of corrections.

(l) The department of juvenile corrections.

(m) The Arizona health care cost containment system.

(n) The department of health services.

(o) The department of administration.

(p) The department of transportation.

(q) The judiciary, including the supreme court, the court of appeals and the superior court.

3. "Authorized agent" means a commercial enterprise contracted to process transactions on behalf of a state agency.

4. "Biennial budget unit" means any department, commission, board, institution or other agency of the state organization receiving, expending or disbursing state funds or incurring obligations against the state that is not an annual budget unit.

5. "Budget estimates" means statements with accompanying explanations, as provided by this chapter, in which a budget unit states its financial requirements and requests appropriations.

6. "Budget program" means functions and activities of a budget unit or within a budget unit that are preplanned to fulfill a distinct mission.

7. "Budget unit" means any department, commission, board, institution or other agency of the state organization receiving, expending or disbursing state funds or incurring obligations against the state. Budget unit includes the annual budget units and biennial budget units.

8. "Cardholder" means any person:

(a) Named on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer.

(b) In possession of a credit card with the consent of the person to whom the credit card was issued.

9. "Claim" means a demand against the state for payment for either:

(a) Goods delivered or, in the case of highway construction, goods or facilities to be delivered, by the federal government.

(b) Services performed.

10. "Convenience fee" means an additional fee that is imposed by an authorized agent on ~~an electronic~~ A WEB-BASED PORTAL transaction ~~and~~ FOR THE ACCEPTANCE OF A CREDIT CARD that would not be charged if the same transaction were completed ~~in person~~ BY AN ALTERNATE METHOD OF PAYMENT.

11. "Credit card" means:

(a) Any instrument or device, whether known as a credit card, charge card, credit plate, courtesy card or identification card or by any other name, issued with or without a fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value, either on credit or in possession or in consideration of an undertaking or guaranty by the issuer of the payment of a check drawn by the cardholder, on a promise to pay in part or in full at a future time, whether or not all or any part of the indebtedness represented by this promise to make deferred payment is secured or unsecured.

(b) Any debit card, electronic benefit transfer card or other access instrument or device, other than a check that is signed by the holder or other authorized signatory on the deposit account, that draws monies from a deposit account in order to obtain money, goods, services or anything else of value.

(c) Any stored value card, smart card or other instrument or device that enables a person to obtain goods, services or anything else of value through the use of value stored on the instrument or device.

(d) The number assigned to an instrument or device described in subdivision (a), (b) or (c) of this paragraph even if the physical instrument or device is not used or presented.

12. "Discount fee" means the fee calculated and charged by the CREDIT card issuer or ~~the processing~~ A financial institution~~,~~ pursuant to ~~a merchant~~ AN agreement for the processing of any credit card transaction.

13. "Encumbrance" means an obligation in the form of any purchase order, contract or other commitment which is chargeable to an appropriation or any other authorized fund source and for which a part of the fund source is reserved. It ceases to be an encumbrance when paid or canceled.

14. "Expenditure class" means one of the kinds of expenditure denoting a class of services or commodities purchased or properties acquired as specified in the classification of expenditures prescribed by the director

of the department of administration for use in expenditure accounting, in making budget estimates and in the budget reports and budgets.

15. "Issuer" means any business organization, state agency or financial institution, or its duly authorized agent, that issues a credit card.

16. "Prepayment" means the payment of a claim before receiving the goods or services.

17. "PROCESSING FEE" MEANS A FEE CHARGED BY AN ENTITY OTHER THAN A CREDIT CARD ISSUER OR THE PROCESSING FINANCIAL INSTITUTION TO PROCESS A CREDIT CARD TRANSACTION.

~~17.~~ 18. "Purchase order" means a document that is signed by the appropriate agency authorized signatory, that requests a vendor to deliver described goods or services at a specific price and that on delivery and acceptance of the goods or services by this state becomes an obligation of this state.

~~18.~~ 19. "Transaction amount" means the total amount due to the state for any goods, service or license or anything else of value.

Sec. 2. Section 35-142, Arizona Revised Statutes, is amended to read:

35-142. Monies kept in funds separate from state general fund; receipt and withdrawal

A. All monies received for and belonging to the state shall be deposited in the state treasury and credited to the state general fund except the following, which shall be placed and retained in separate funds:

1. The unexpendable principal of monies received from federal land grants shall be placed in separate funds and the account of each such separate fund shall bear a title indicating the source and the institution or purpose to which such fund belongs.

2. The interest, rentals and other expendable money received as income from federal land grants shall be placed in separate accounts, each account bearing a title indicating the source and the institution or purpose to which the fund belongs. Such expendable monies shall be expended only as authorized, regulated and controlled by the general appropriation act or other act of the legislature.

3. All private or quasi-private monies authorized by law to be paid to or held by the state treasurer shall be placed in separate accounts, each account bearing a title indicating the source and purpose of such fund.

4. All monies legally pledged to retirement of building indebtedness or bonds issued by those institutions authorized to incur such indebtedness or to issue such bonds shall be placed in separate accounts.

5. Monies of a multi-county water conservation district authorized by law to be paid to or held by the state treasurer shall be placed in separate accounts, each account bearing a title indicating the source and purpose of such fund.

6. All monies collected by the Arizona game and fish department shall be deposited in a special fund known as the state game and fish protection

fund for the use of the Arizona game and fish commission in carrying out the provisions of title 17.

7. All federal monies that are received by the department of economic security for family assistance benefits and medical eligibility as a result of efficiencies developed by the department of economic security and that would otherwise revert to the state general fund pursuant to section 35-190 shall be retained for use by the department of economic security in accordance with the terms and conditions imposed by the federal funding source IN AN ACCOUNT OR ACCOUNTS ESTABLISHED OR AUTHORIZED BY THE STATE TREASURER.

8. Monies designated by law as special state funds shall not be considered a part of the general fund. Unless otherwise prescribed by law, the state treasurer shall be the custodian of all such funds.

9. ALL MONIES RECEIVED AND ANY ACCOUNTS ESTABLISHED AND MAINTAINED BY THE DIRECTOR OF THE ARIZONA STATE RETIREMENT SYSTEM OR THE FUND MANAGER OF THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM, THE CORRECTIONS OFFICER RETIREMENT PLAN AND THE ELECTED OFFICIALS' RETIREMENT PLAN.

B. No money shall be received or held by the state treasurer except as authorized by law, and in every instance the treasurer shall issue a receipt for money received and shall record the transaction in the statewide accounting system. No money shall be withdrawn from the treasury except upon the warrant or electronic funds transfer voucher of the department of administration.

C. All federal monies granted and paid to the state by the federal government shall be accounted for in the accounts or funds of the state in the necessary detail to meet federal and state accounting, budgetary and auditing requirements, and all appropriations for matching such federal monies shall be transferred from the general fund to such separate funds as needed, except as otherwise required by the federal government.

D. Nothing in this section requires the establishment of separate accounts or funds for such federal monies unless otherwise required by federal or state law. The department of administration has the authority to use the most efficient system of accounts and records, consistent with legal requirements and standard and necessary fiscal safeguards.

E. Nothing in this section precludes the creation by the department of administration of a clearing account or other acceptable accounting method to effect prompt payment of claims from an approved budget or appropriation. The department of administration shall report each account or fund established or cancelled to the directors of the joint legislative budget committee and the governor's office of strategic planning and budgeting.

F. Nothing in this section or any other section precludes the use of monies kept in funds separate from the general fund, the interest from which accrues to the general fund, for payment of claims against the general fund, provided sufficient monies remain available for payment of claims against such funds.

G. The department of administration may issue warrants for qualified expenditures of federal program monies before they are deposited in the state treasury. The receipt of federal monies shall be timed to coincide, as closely as administratively feasible, with the redemption of warrants by the state treasurer. The department of administration shall limit expenditures to the amount that has been made available for the use under the grant award by the federal government. The state agency initiating the expenditures is responsible for ensuring that expenditures qualify for coverage under the guidelines of the federal grant award.

H. The department of administration shall establish the policies and procedures for all state agencies for drawing federal monies. When the established method results in federal monies being held by this state, the department of administration may use the interest earned on the monies to pay the federal government for any related interest liability. If an interest liability is incurred due to a state agency varying from the established policies and procedures, the department of administration shall charge the appropriate agency account or fund. Interest payment charges to agencies shall be reported by the department of administration to the joint legislative budget committee on or before March 1. Any federal interest liability owed to this state as a result of the delayed federal disbursements shall be used to offset this state's interest liability to the federal government. Any remaining interest earnings shall be deposited in the state general fund.

I. Any state agency or authorized agent of a state agency may accept credit cards pursuant to an agreement entered into by the state treasurer pursuant to section 35-315 for the payment of any amount due to that agency or agent or this state.

J. Except for the department of revenue for tax payments, agencies or authorized agents on behalf of state agencies that accept credit cards shall deduct any applicable discount fee AND PROCESSING FEE associated with the transaction amount before depositing the net amount in the appropriate state fund. NO OTHER REDUCTION IS PERMITTED AGAINST THE TRANSACTION AMOUNT. The net amount deposited in the appropriate state fund shall be considered as the full deposit required by law of monies received by the agency OR THE AUTHORIZED AGENT. Payment of any applicable discount fee AND PROCESSING FEE shall be accounted for in the annual report submitted to the governor's office of strategic planning and budgeting in accordance with section 41-1273. THE TRANSACTION AMOUNT OF ANY CREDIT CARD TRANSACTION SHALL NOT BE REDUCED BY ANY DISCOUNT FEE OR PROCESSING FEE IN AN AMOUNT IN EXCESS OF THE MERCHANT CARD SETTLEMENT FEES REFLECTED IN THE STATE BANKING CONTRACT WITH THE STATE TREASURER'S OFFICE.

K. Any state agency that contracts with an authorized agent for the electronic processing of transactions pursuant to title 41, chapter 23 may include a provision in the contract to allow the authorized agent to impose

a convenience fee. If allowed, the convenience fee shall be charged to the cardholder in addition to the transaction amount, except for the following:

1. EXCEPT AS PROVIDED IN SUBSECTION R OF THIS SECTION, any permits, licenses or other authorizations needed to pursue a trade or occupation in this state.

2. EXCEPT AS PROVIDED IN SUBSECTION R OF THIS SECTION, any permits, licenses or other authorizations needed to establish, expand or operate a business in this state.

3. EXCEPT AS PROVIDED IN SUBSECTION R OF THIS SECTION, any permits, licenses or other authorizations needed to register ~~and~~ A VEHICLE OR license a ~~motor vehicle or~~ driver in this state.

L. Any state agency or its authorized agent ~~may deduct the convenience fee associated with electronic transactions listed in this subsection before depositing the net amount in the appropriate state fund.~~ SHALL:

1. DEDUCT THE AMOUNT OF THE CONVENIENCE FEE BEFORE DEPOSITING THE TRANSACTION AMOUNT OR THE TRANSACTION AMOUNT REDUCED BY THE DISCOUNT FEE OR THE PROCESSING FEE, OR BOTH, INTO THE APPROPRIATE STATE FUND.

2. NOT DEDUCT ANY PART OF THE CONVENIENCE FEE FROM THE TRANSACTION AMOUNT BEFORE DEPOSITING THE NET AMOUNT INTO THE APPROPRIATE STATE FUND.

3. DEDUCT THE AMOUNT OF THE DISCOUNT FEE OR THE PROCESSING FEE, OR BOTH, FROM THE TRANSACTION AMOUNT BEFORE DEPOSITING THE NET AMOUNT INTO THE APPROPRIATE STATE FUND.

M. The net amount deposited in the appropriate state fund pursuant to subsection K~~, paragraphs 1, 2 and 3~~ OR SUBSECTION L OF THIS SECTION shall be considered as the full deposit of monies that is required by law and that is received by the agency.

N. NOTWITHSTANDING SECTION 35-142.01, CONVENIENCE FEES RECEIVED BY A STATE AGENCY OR ITS AUTHORIZED AGENT ARE LIMITED TO, AND MAY BE USED TO OFFSET, THE COSTS IMPOSED BY THE AUTHORIZED AGENT IN PROCESSING THE TRANSACTIONS.

~~M.~~ O. When the percentage of electronic transactions first exceeds at least thirty per cent of a state agency's total transactions, the state agency shall perform a cost benefit report, including costs of convenience fees, the amount of revenue generated and any realized cost savings. The state agency shall submit the cost benefit report to the joint legislative budget committee within six months after reaching the thirty per cent threshold.

~~N.~~ P. State agencies shall report the number of transactions, the total dollar amount of transactions processed, the total dollar amount of any discount fee and the total dollar amount of any convenience fee charged, deducted or paid pursuant to subsections J and K of this section quarterly to the governor, the government information technology agency and the joint legislative budget committee.

Q. NOTHING IN THIS SECTION OR ANY OTHER PROVISION OF LAW AUTHORIZES ANY STATE AGENCY, AUTHORIZED AGENT OF ANY STATE AGENCY OR BUDGET UNIT TO

ESTABLISH A BANK ACCOUNT FOR ANY GOVERNMENT MONIES. ALL MONIES RECEIVED BY OR ON BEHALF OF THIS STATE SHALL BE DEPOSITED WITH AND IN THE CUSTODY OF THE STATE TREASURER OR IN AN ACCOUNT THAT IS AUTHORIZED BY THE STATE TREASURER PURSUANT TO THIS SECTION. THIS SUBSECTION DOES NOT APPLY TO MONIES RECEIVED AND ANY ACCOUNTS ESTABLISHED AND MAINTAINED BY THE DIRECTOR OF THE ARIZONA STATE RETIREMENT SYSTEM OR THE FUND MANAGER OF THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM, THE CORRECTIONS OFFICER RETIREMENT PLAN AND THE ELECTED OFFICIALS' RETIREMENT PLAN.

R. IF A STATE AGENCY PROVIDES AN ALTERNATIVE METHOD OF PAYMENT, THE CONVENIENCE FEE MAY BE CHARGED TO THE CARDHOLDER IN ADDITION TO THE TRANSACTION AMOUNT.

Sec. 3. Transfer of bank account monies; reversion

A. On or before January 1, 2005, all state agencies and budget units shall transfer all monies that are kept in private bank accounts, except accounts established or authorized pursuant to section 35-142, subsection A, Arizona Revised Statutes, to the state treasurer for deposit in separate accounts, as determined by the state treasurer.

B. On January 1, 2005, all state agency and budget unit monies remaining in private bank accounts, except accounts established or authorized pursuant to section 35-142, subsection A, Arizona Revised Statutes, shall be transferred by the agency or budget unit to the state general fund.

APPROVED BY THE GOVERNOR APRIL 26, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 2004.