Senate Engrossed House Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 260

HOUSE BILL 2786

AN ACT

AMENDING SECTIONS 5-522, 35-131, 44-302 AND 44-312, ARIZONA REVISED STATUTES; MAKING APPROPRIATIONS; RELATING TO GENERAL REVENUES BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 5-522, Arizona Revised Statutes, is amended to read:

5-522. Use of monies in state lottery fund; report

A. The monies in the state lottery fund shall be expended only for the following purposes and in the order provided:

1. For the expenses of the commission incurred in carrying out its powers and duties and in the operation of the lottery.

2. For payment to the commerce and economic development commission fund established by section 41-1505.10 of not less than twenty-one and one-half per cent of the revenues received from the sale of two special lottery games conducted for the benefit of economic development.

3. Except as provided in subsection F of this section, for payment to the local transportation assistance fund established by section 28-8101 of not less than twenty-nine per cent of the revenues received from the sale of multistate lottery games, up to a maximum of eighteen million dollars each fiscal year.

4. For payment to the state general fund of not less than twenty-one and one-half per cent of the revenues received from the sale of any instant bingo games conducted by the state lottery and not less than twenty-nine per cent of the revenues received from the sale of any on-line three-number games conducted by the state lottery, up to a maximum of ten million dollars each fiscal year, except that if on or before June 1 of each fiscal year the state lottery director determines that monies available to the Arizona state parks board heritage fund under subsection D of this section may not equal ten million dollars in that fiscal year or that the monies available to the Arizona game and fish commission heritage fund under subsection D of this section may not equal ten million dollars in that fiscal year, or both, the director shall authorize deposits to the Arizona state parks board heritage fund in an amount so that the total monies in that fund in that fiscal year equal ten million dollars or to the Arizona game and fish commission heritage fund in an amount so that the total monies in that fund in that fiscal year equal ten million dollars, or both. The state lottery director shall not make any deposits pursuant to this paragraph until after the director's determination each fiscal year.

5. Of the monies remaining in the state lottery fund from the sale of instant bingo games and on-line three-number games each fiscal year, thirty per cent shall be allocated to the funds and programs described in subsection E of this section and seventy per cent shall be deposited in the local transportation assistance fund established by section 28-8101. The director shall not allocate more than the amount specified in subsection E of this section for each fiscal year to the funds and programs described in subsection E of this section from the state lottery fund pursuant to this paragraph and subsection E of this section. A maximum of eighteen million dollars may be deposited in the local transportation assistance fund each

fiscal year from the state lottery fund pursuant to this paragraph and paragraph 3 of this subsection.

B. Of the monies remaining in the state lottery fund after the appropriations authorized in subsection A of this section seventy-five per cent up to a maximum of twenty-three million dollars each fiscal year shall be deposited in the local transportation assistance fund established ~~pursuant to~~ BY section 28-8101 and twenty-five per cent up to a maximum of seven million six hundred fifty thousand dollars each fiscal year shall be deposited in the county assistance fund established ~~pursuant to~~ BY section 41-175. Monies distributed pursuant to this subsection shall be in addition to monies distributed pursuant to subsection A, paragraphs ~~4~~ 3 and ~~6~~ 5 of this section.

C. Notwithstanding subsection B of this section, if the state lottery director determines at the beginning of any fiscal year that monies available to cities, towns and counties under this section may not equal thirty million six hundred fifty thousand dollars, the director shall not authorize deposits to the county assistance fund until the deposits to the local transportation assistance fund equal twenty-three million dollars.

D. Of the monies remaining in the state lottery fund each fiscal year after appropriations and deposits authorized in subsections A, B and C of this section, ten million dollars shall be deposited in the Arizona state parks board heritage fund established ~~pursuant to~~ BY section 41-502 and ten million dollars shall be deposited in the Arizona game and fish commission heritage fund established ~~pursuant to~~ BY section 17-297.

E. Of the monies remaining in the state lottery fund each fiscal year after appropriations and deposits authorized in subsections A, B, C and D of this section, and appropriations and deposits to the local transportation assistance fund authorized by this section, five million dollars shall be allocated to the department of economic security for the healthy families program established by section 8-701, four million dollars shall be allocated to the Arizona board of regents for the Arizona area health education system established by section 15-1643, three million dollars shall be allocated to the department of health services to fund the teenage pregnancy prevention programs established in Laws 1995, chapter 190, sections 2 and 3, two million dollars shall be allocated to the department of health services for the health start program established by section 36-697, two million dollars shall be deposited in the disease control research fund established by section 36-274 and one million dollars shall be allocated to the department of health services for the federal women, infants and children food program. The allocations in this subsection shall be adjusted annually according to changes in the GDP price deflator as defined in section 41-563 and the allocations are exempt from the provisions of section 35-190, relating to lapsing of appropriations. If there are not sufficient monies available pursuant to this subsection, the allocation of monies for each program shall be reduced on a pro rata basis.

F. Notwithstanding subsection A, paragraph 3 of this section, if the state lottery director determines that monies available to the state general fund from the sale of multistate lottery games may not equal thirty-one million dollars in a fiscal year, the director shall not authorize deposits to the local transportation assistance fund pursuant to subsection A, paragraph ~~4~~ 3 of this section until the deposits to the state general fund from the sale of multistate lottery games equal thirty-one million dollars in a fiscal year.

G. OF THE MONIES REMAINING IN THE STATE LOTTERY FUND EACH FISCAL YEAR AFTER APPROPRIATIONS AND DEPOSITS AUTHORIZED IN SUBSECTIONS A THROUGH F OF THIS SECTION, ONE MILLION DOLLARS OR THE REMAINING BALANCE IN THE FUND, WHICHEVER IS LESS, IS APPROPRIATED TO THE DEPARTMENT OF ECONOMIC SECURITY FOR GRANTS TO NONPROFIT ORGANIZATIONS, INCLUDING FAITH BASED ORGANIZATIONS, FOR HOMELESS EMERGENCY AND TRANSITIONAL SHELTERS AND RELATED SUPPORT SERVICES. THE DEPARTMENT OF ECONOMIC SECURITY SHALL SUBMIT A REPORT ON THE AMOUNTS, RECIPIENTS, PURPOSES AND RESULTS OF EACH GRANT TO THE GOVERNOR, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE ON OR BEFORE DECEMBER 31 OF EACH YEAR FOR THE PRIOR FISCAL YEAR AND SHALL PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF STATE AND THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS.

~~G.~~ H. All monies remaining in the state lottery fund after the appropriations and deposits authorized in this section shall be deposited in the state general fund.

~~H.~~ I. Except for monies expended for prizes as provided in section 5-504, subsection ~~H~~ G and section 41-1505.10, monies expended under subsection A of this section ~~shall be~~ ARE subject to legislative appropriation.

Sec. 2. Section 35-131, Arizona Revised Statutes, is amended to read:

35-131. Accounting system; reports; notice of deficiency; forms

A. In accordance with generally accepted governmental accounting principles, the department of administration shall develop and prescribe for the use of all budget units a uniform accounting system so designed as to ensure compliance with all legal and constitutional requirements including those respecting the receipt and expenditure of and the accountability for public monies.

B. The department of administration shall maintain complete, accurate and current financial records relating to state monies and to other public monies in the state treasury available to, encumbered by or expended by each budget unit, including trust monies or other monies not subject to appropriation, setting out all revenues, charges against all funds, fund and appropriation balances, interfund transfers, outstanding warrants and encumbrances, in a manner consistent with the uniform state accounting system, for the preparation of statewide financial statements in accordance with generally accepted governmental accounting principles.

C. Each month the department of administration shall prepare and submit to the governor a report summarizing by budget unit and appropriation or other fund source the above information in such form as will most clearly and accurately set out the current fiscal condition of the state and shall furnish to each budget unit a report of its transactions by appropriation or other fund source in a form that will clearly and accurately show the fiscal activity and condition of such appropriation or fund source.

D. The responsible official for each budget unit shall monitor reports prepared pursuant to subsection C of this section to identify any projected total deficiency for the budget unit fiscal year. On a determination of a projected deficiency, the official shall take any action necessary to assure continuing compliance with section 1-254 by notifying the governor, the speaker of the house of representatives, the president of the senate and the chairman of the joint legislative budget committee of the deficiency and the reasons for the deficiency. The initial notification of the deficiency shall be followed within ten business days by a report from the responsible budget unit official that includes the following:

1. A complete explanation of the causes of the deficiency.

2. A plan that assures that the deficiency will be resolved within the fiscal year without supplemental appropriation and that includes the policy and programmatic implications of the deficiency and the plan.

3. A commitment to provide a progress report if the projected degree of deficiency changes substantially. The report shall include additional measures necessary to assure resolution of the deficiency within the fiscal year.

E. On or before December 1 of each year, the director of the department of administration shall submit to the governor a complete report of the financial transactions of the preceding fiscal year and of the financial condition of the state at the end of that year with such comments and supplementary data as the director of the department of administration deems necessary to make the report complete and readily understandable. The report shall include all appropriated and nonappropriated monies in no less detail than the state general fund.

F. On or before February 1 of each year, the director of the department of administration and the state treasurer shall submit to the joint legislative budget committee a report explaining any differences between the department of administration's estimate of the previous fiscal year's state general fund ending balance submitted pursuant to subsection E of this section and the state treasurer's estimate of the invested balance including the general fund share of that balance as of June 30 of the previous fiscal year submitted pursuant to section 41-172.

G. IN PREPARING THE COMPREHENSIVE ANNUAL FINANCIAL REPORT PUBLISHED IN ACCORDANCE WITH THE GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, THE DEPARTMENT OF ADMINISTRATION SHALL INCLUDE SUPPLEMENTARY SCHEDULES THAT RECONCILE ANY DIFFERENCES BETWEEN THE STATE GENERAL FUND AS REPORTED IN THE COMPREHENSIVE

ANNUAL FINANCIAL REPORT AND THE STATE GENERAL FUND AS REPORTED IN THE ANNUAL FINANCIAL REPORT REQUIRED BY SUBSECTION E OF THIS SECTION. THIS RECONCILIATION SHALL ADDRESS REVENUES, EXPENDITURES AND FUND BALANCES.

~~G.~~ H. The director of the department of administration shall prescribe uniform classifications for assets, liabilities, receipts and expenditures and forms for the periodic reporting of financial accounts, transactions and other matters by budget units compatible with the reports required of the director of the department of administration under this section. Such records and accounts shall be maintained and reconciled by budget units. If required for reporting, the department of administration may establish or delete funds and budget units may maintain additional records for reporting to the federal government or other funding source.

~~H.~~ I. Each organization that is included in the state's reporting entity as defined by generally accepted accounting principles shall submit all necessary financial statements or information to the department of administration on a basis of accounting that is consistent with generally accepted accounting principles and that is in accordance with the policies and procedures of the department of administration.

Sec. 3. Section 44-302, Arizona Revised Statutes, is amended to read:

44-302. Presumptions of abandonment

A. Property is presumed abandoned if it is unclaimed by the apparent owner according to the following schedule:

1. A traveler's check is presumed abandoned fifteen years after issuance.

2. A money order or similar written instrument, other than a third party bank check, is presumed abandoned seven years after issuance.

3. Any stock or other equity interest in a business association or financial organization, including a security entitlement under title 47, chapter 8, is presumed abandoned three years after any of the following, whichever occurs first:

(a) The date of the most recent dividend, stock split or other distribution that is unclaimed by the apparent owner.

(b) The date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable.

(c) The date the holder discontinued mailings, notifications or communications to the apparent owner.

4. The principal on debt, other than a bearer bond or an original issue discount bond, of a business association or financial organization is presumed abandoned ~~five~~ THREE years after the maturity date and the interest on the debt is presumed abandoned ~~five~~ THREE years after the payment date.

5. A demand, savings or time deposit, including a deposit that is automatically renewable, and any interest or dividends are presumed abandoned five years after maturity or the date of the last indication by the owner of interest in the property, whichever occurs first. For the purposes of this paragraph, a deposit that is automatically renewable is deemed matured on its

initial date of maturity, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by any memorandum or other record on file with the holder.

6. Credits owed to a customer as a result of a retail business transaction are presumed abandoned five years after the obligation accrued.

7. An amount owed by an insurance company on a life or endowment insurance policy or an annuity that has matured or terminated is presumed abandoned five years after the obligation to pay arose or, in the case of a policy or annuity that is payable on proof of death, the amount is presumed abandoned two years after the insured has attained, or would have attained if the insured were living, the limiting age under the mortality table on which the reserve is based. For the purposes of this paragraph all of the following conditions apply:

(a) If a person other than the insured or annuitant is entitled to the owed amount and the person's address is not known to the company or it is not definite and certain from the records of the company who is entitled to the amount, it is presumed that the last known address of the person who is entitled to the amount is the same as the last known address of the insured or annuitant according to the company's records.

(b) Notwithstanding any law, if the company learns of the death of the insured or annuitant and the beneficiary has not communicated with the insurer within four months after the death, the company shall take reasonable steps to pay the proceeds to the beneficiary.

(c) Every change of beneficiary form issued by an insurance company under any life or endowment insurance policy or annuity contract to an insured or owner who is a resident of this state shall request the following information:

(i) The name of each beneficiary, or if a class of beneficiaries is named, the name of each current beneficiary in the class.

(ii) The address of each beneficiary.

(iii) The relationship of each beneficiary to the insured.

8. A life or endowment insurance policy or annuity contract not matured by actual proof of the death of the insured or annuitant according to the company's records is deemed matured and the proceeds are deemed due and payable and are presumed abandoned after two years if all of the following conditions apply:

(a) The insured has attained, or would have attained if the insured were living, the limiting age under the mortality table on which the reserve is based.

(b) The policy was in force at the time the insured attained or would have attained the limiting age specified in subdivision (a) of this paragraph.

(c) Neither the insured nor any other person who appears to have an interest in the policy within the last two years according to the company's records has assigned, readjusted or paid premiums on the policy or subjected the policy to a loan, corresponded in writing with the company concerning the policy or otherwise indicated an interest as evidenced by a memorandum or any other record on file with and prepared by an employee of the company.

9. Property that is distributable by a business association or financial organization in a course of dissolution is presumed abandoned one year after the property becomes distributable.

10. Property that is received by a court as proceeds of a class action and that is not distributed pursuant to the judgment is presumed abandoned one year after the distribution date.

11. Property that is held by a court, government or governmental subdivision, agency or instrumentality, except for support as defined in section 25-500 or for spousal maintenance, is presumed abandoned three years after the property becomes distributable. Monies held for the payment of warrants by a state agency that remain unclaimed by the owner at the time of the void date printed on the face of the warrant are presumed abandoned. For THE purposes of this paragraph, "governmental subdivision" does not include a special taxing district AS defined in section 48-241.

12. Wages or other compensation for personal services is presumed abandoned one year after the compensation becomes payable.

13. Property in any individual retirement account, defined benefit plan or other account or plan that qualifies for tax deferral under the income tax laws of the United States is presumed abandoned three years after any of the following, whichever occurs first:

(a) The date of the distribution or attempted distribution of the property.

(b) The date of the required distribution as stated in the plan or trust agreement that governs the plan.

(c) If determinable by the holder, the date specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty.

14. Any amount that is payable on a check, draft or similar instrument on which a financial organization or business association is directly liable, including a cashier's check and a certified check, and that has been outstanding for more than five years after the check, draft or similar instrument was payable or after issuance if payable on demand is presumed abandoned unless within five years the owner has communicated in writing with the financial organization or business association concerning the check, draft or similar instrument or otherwise indicated an interest as evidenced by a memorandum or any other record on file and prepared by an employee of the financial organization or business association.

15. All other property is presumed abandoned five years after the owner's rights to demand the property or after the obligation to pay or distribute the property arises, whichever occurs first.

16. Excess proceeds deposited with the county treasurer pursuant to section 33-812 are presumed abandoned if the monies remain with the treasurer for at least three years from the date of deposit and there is no pending application for distribution.

17. ANY DIVIDEND, PROFIT, DISTRIBUTION, INTEREST, REDEMPTION, PAYMENT ON PRINCIPAL OR OTHER SUM HELD OR OWING BY A BUSINESS ASSOCIATION FOR OR TO ITS SHAREHOLDER, CERTIFICATE HOLDER, MEMBER, BONDHOLDER OR OTHER SECURITY HOLDER WHO HAS NOT CLAIMED IT, OR CORRESPONDED IN WRITING WITH THE BUSINESS ASSOCIATION CONCERNING IT, IS PRESUMED ABANDONED THREE YEARS AFTER THE DATE PRESCRIBED FOR PAYMENT OR DELIVERY.

B. At the time that an interest is presumed abandoned under subsection A of this section, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

C. Property is unclaimed if, for the applicable period prescribed in subsection A of this section, the apparent owner has not communicated in writing with the holder or communicated by other means reflected in a contemporaneous record that is prepared by or on behalf of the holder and that concerns the property or the account or accounts in which the property is held and has not otherwise indicated an interest in the property and if the holder has not communicated in writing with regard to the property that would otherwise be unclaimed. A communication with an owner by a person other than the holder or the holder's representative who has not identified the property in writing to the owner is not an indication of interest in the property by the owner.

D. An indication of an owner's interest in property includes:

1. The presentment of any check or other instrument of payment of any dividend or other distribution that is made with respect to any account, underlying stock or other interest in a business association or financial organization. If the distribution is made by electronic or similar means an indication of an owner's interest includes evidence that the distribution has been received.

2. Activity directed by the owner in the account in which the property is held, including a direction by the owner to increase, decrease or change the amount or type of property held in the account.

3. The making of a deposit to or withdrawal from a bank account.

4. The payment of a premium with respect to a property interest in an insurance policy. The application of an automatic premium loan provision or any other nonforfeiture provision in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or if the insured or the beneficiary of the policy has otherwise become entitled to the

proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

E. Property is payable or distributable notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment.

Sec. 4. Section 44-312, Arizona Revised Statutes, is amended to read:

44-312. Public sale of abandoned property

A. Except as otherwise provided in this section, within three years after receiving abandoned property the department shall sell the property to the highest bidder at a public sale at a location in this state that in the judgment of the department affords the most favorable market for the property. The department may decline the highest bid and reoffer the property for sale if the department considers the bid to be insufficient. The department is not required to offer the property for sale if the department determines that the probable cost of the sale will exceed the proceeds from the sale. Before conducting a sale pursuant to this section, the department shall cause a notice to be published at least three weeks before the sale in a newspaper of general circulation in the county in which the sale will occur.

B. The department shall sell securities that are listed on an established stock exchange at prices prevailing on the exchange at the time of the sale. The department may sell other securities over the counter at prices prevailing at the time of the sale or by any reasonable method selected by the department.

C. ~~If the department sells the securities before the expiration of three years after the holder delivers the securities to the department, a person who makes a claim pursuant to this chapter before the end of the three year period is entitled to receive from the department the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever is more, plus dividends, interest and other increments accrued up to the time the claim is made, minus all expenses of the sale.~~ A person who makes a claim pursuant to this chapter ~~after the expiration of the three year period~~ FOR SECURITIES is entitled to receive from the department the securities that the holder delivered to the department if the securities remain in the department's custody or the person is entitled to receive the net proceeds of the sale. Except in a case of intentional misconduct or malfeasance by the department, the person is not entitled to receive any appreciation in the value of the property that occurred after the delivery to the department.

D. A purchaser of property at a sale conducted by the department pursuant to this chapter takes the property free of all claims of the owner or previous holder and of all persons claiming through or under the owner or previous holder. The department shall execute all documents necessary to complete the transfer of ownership.

Sec. 5. Securities sales; distribution of proceeds

Notwithstanding any other law, any proceeds from the sales of securities pursuant to section 44-312, Arizona Revised Statutes, as amended by this act, in fiscal year 2007-2008 shall be deposited in the state general fund.

Sec. 6. Arizona twenty-first century competitive initiative fund; appropriations

A. The sum of $25,000,000 is appropriated from the state general fund in each of the fiscal years 2007-2008 through 2010-2011 for deposit into the Arizona twenty-first century competitive initiative fund established by section 41-1505.09, Arizona Revised Statutes, and the same amounts are appropriated from that fund to the commerce and economic development commission in each fiscal year for the purposes prescribed in Laws 2006, chapter 334.

B. In order to amend the existing memorandum of understanding or enter into a new memorandum of understanding with the commission pursuant to section 41-1505.09, Arizona Revised Statutes, a nonprofit corporation shall identify and document written agreements for private or philanthropic investments either for specific grants or for general grant investment areas that are equivalent to $25,000,000 or more in each of the fiscal years 2007-2008, 2008-2009, 2009-2010 and 2010-2011. Unless prohibited by the organization's governing documents, the private or philanthropic investments shall be cash contributions to the nonprofit. State funds shall be drawn down incrementally as the cash match is received by the nonprofit and documented by the commission.

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

Sec. 7. Unrestricted federal monies; retroactivity

A. Any unrestricted federal monies received from May 1, 2007 through June 30, 2008 shall be deposited in the state general fund. The monies shall be used for the payment of essential governmental services.

B. This section is effective retroactively to from and after April 30, 2007.

Sec. 8. Department of insurance; fee and assessment adjustment suspension; retroactivity

A. Notwithstanding section 20-167, subsection F, Arizona Revised Statutes, and section 20-466, subsection J, Arizona Revised Statutes, the director of insurance shall not revise fees or assessments in fiscal year 2007-2008 and fiscal year 2008-2009 for the purposes of meeting the requirement to recover at least ninety-five per cent but not more than one hundred ten per cent of the department of insurance's appropriated budget.

B. This section is effective retroactively to from and after June 30, 2007.

1 Sec. 9. State real estate department; fee adjustment;
2 suspension; retroactivity
3 A. Notwithstanding section 32-2103, subsection B, Arizona Revised
4 Statutes, the state real estate commissioner shall not revise fees in fiscal
5 year 2007-2008 for the purposes of meeting the requirement to recover at
6 least ninety-five per cent but not more than one hundred ten per cent of the
7 state real estate department's appropriated budget.
8 B. This section is effective retroactively to from and after June 30,
9 2007.

APPROVED BY THE GOVERNOR JUNE 25, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 25, 2007.