House Engrossed

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KEN BENNETT
SECRETARY OF STATE

State of Arizona
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Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 128

HOUSE BILL 2243

AN ACT

AMENDING SECTION 41-2306, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, SEVENTH SPECIAL SESSION, CHAPTER 12, SECTION 17; AMENDING SECTION 42-5029, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, SEVENTH SPECIAL SESSION, CHAPTER 12, SECTION 31; RELATING TO TOURISM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 41-2306, Arizona Revised Statutes, as amended by Laws 2010, seventh special session, chapter 12, section 17, is amended to read:

41-2306. Tourism fund

A. The tourism fund is established consisting of separate accounts derived from:

1. REVENUES DEPOSITED PURSUANT TO SECTION 42-5029. ALL MONIES IN THIS ACCOUNT ARE CONTINUOUSLY APPROPRIATED TO THE OFFICE OF TOURISM FOR THE PURPOSES OF OPERATIONS AND STATEWIDE TOURISM PROMOTION.

~~1.~~ 2. Revenues deposited pursuant to section 5-835, subsection B or C. All monies in this account are continuously appropriated to the office of tourism, which, in consultation with a consortium of destination marketing organizations in the county in which the tourism and sports authority is established, shall be spent to promote tourism within that county. FOR FISCAL YEARS 2010-2011 AND 2011-2012, fifty per cent of the revenues deposited in the tourism fund pursuant to this subsection may be expended by the office of tourism for operational and administrative purposes.

~~2.~~ 3. Revenues deposited pursuant to section 42-6108.01. The legislature shall appropriate all monies in this account to the office of tourism, which, in conjunction with the destination marketing organization in the county in which the tax revenues are collected, shall be spent only to promote tourism within that county and shall not be spent for administrative or overhead expenses.

4. Revenues deposited pursuant to section 5-601.02(H)(3)(b)(iv). The office of tourism shall administer the account. The account is not subject to appropriation, and expenditures from the fund are not subject to outside approval notwithstanding any statutory provision to the contrary. Monies received pursuant to section 5-601.02 shall be deposited directly with this account. On notice from the office of tourism, the state treasurer may invest and divest monies in the account as provided by section 35-313, and monies earned from investment shall be credited to the account. No monies in the account shall revert to or be deposited in any other fund, including the state general fund. Monies in this account shall supplement, not supplant, current funds in other accounts of the tourism fund. Monies in this account shall be spent only to promote tourism within the state and shall not be used for administrative or overhead expenses.

B. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

Sec. 2. Section 42-5029, Arizona Revised Statutes, as amended by Laws 2010, seventh special session, chapter 12, section 31, is amended to read:

42-5029. Remission and distribution of monies; definition

A. The department shall deposit, pursuant to sections 35-146 and 35-147, all revenues collected under this article and articles 4, 5 and 8 of this chapter pursuant to section 42-1116, separately accounting for:

1. Payments of estimated tax under section 42-5014, subsection D.

2. Revenues collected pursuant to section 42-5070.

3. Revenues collected under this article and article 5 of this chapter from and after June 30, 2000 from sources located on Indian reservations in this state.

4. Revenues collected pursuant to section 42-5010, subsection G and section 42-5155, subsection D.

B. The department shall credit payments of estimated tax to an estimated tax clearing account and each month shall transfer all monies in the estimated tax clearing account to a fund designated as the transaction privilege and severance tax clearing account. The department shall credit all other payments to the transaction privilege and severance tax clearing account, separately accounting for the monies designated as distribution base under sections 42-5010, 42-5164, 42-5205 and 42-5353. Each month the department shall report to the state treasurer the amount of monies collected pursuant to this article and articles 4, 5 and 8 of this chapter.

C. On notification by the department, the state treasurer shall distribute the monies deposited in the transaction privilege and severance tax clearing account in the manner prescribed by this section and by sections 42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the account pursuant to sections 42-1118 and 42-1254.

D. Of the monies designated as distribution base the department shall:

1. Pay twenty-five per cent to the various incorporated municipalities in this state in proportion to their population to be used by the municipalities for any municipal purpose.

2. Pay 38.08 per cent to the counties in this state by averaging the following proportions:

(a) The proportion that the population of each county bears to the total state population.

(b) The proportion that the distribution base monies collected during the calendar month in each county under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 bear to the total distribution base monies collected under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 throughout the state for the calendar month.

3. Pay an additional 2.43 per cent to the counties in this state as follows:

(a) Average the following proportions:

(i) The proportion that the assessed valuation used to determine secondary property taxes of each county, after deducting that part of the assessed valuation that is exempt from taxation at the beginning of the month for which the amount is to be paid, bears to the total assessed valuations used to determine secondary property taxes of all the counties after deducting that portion of the assessed valuations that is exempt from taxation at the beginning of the month for which the amount is to be paid.

Property of a city or town that is not within or contiguous to the municipal corporate boundaries and from which water is or may be withdrawn or diverted and transported for use on other property is considered to be taxable property in the county for purposes of determining assessed valuation in the county under this item.

(ii) The proportion that the distribution base monies collected during the calendar month in each county under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 bear to the total distribution base monies collected under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 throughout the state for the calendar month.

(b) If the proportion computed under subdivision (a) of this paragraph for any county is greater than the proportion computed under paragraph 2 of this subsection, the department shall compute the difference between the amount distributed to that county under paragraph 2 of this subsection and the amount that would have been distributed under paragraph 2 of this subsection using the proportion computed under subdivision (a) of this paragraph and shall pay that difference to the county from the amount available for distribution under this paragraph. Any monies remaining after all payments under this subdivision shall be distributed among the counties according to the proportions computed under paragraph 2 of this subsection.

4. After any distributions required by sections 42-5030, 42-5030.01, 42-5031, 42-5032 and 42-5032.01, and after making any transfer to the water quality assurance revolving fund as required by section 49-282, subsection B, credit the remainder of the monies designated as distribution base to the state general fund. From this amount:

(a) The legislature shall annually appropriate to:

~~(a)~~ (i) The department of revenue sufficient monies to administer and enforce this article and articles 5 and 8 of this chapter.

~~(b)~~ (ii) The department of economic security monies to be used for the purposes stated in title 46, chapter 1.

~~(c)~~ (iii) The firearms safety and ranges fund established by section 17-273, fifty thousand dollars derived from the taxes collected from the retail classification pursuant to section 42-5061 for the current fiscal year.

(b) SUBJECT TO SEPARATE INITIAL LEGISLATIVE AUTHORIZATION, EACH YEAR THE STATE TREASURER SHALL TRANSFER TO THE TOURISM FUND AN AMOUNT EQUAL TO THE SUM OF THE FOLLOWING:

(i) THREE AND ONE-HALF PER CENT OF THE GROSS REVENUES DERIVED FROM THE TRANSIENT LODGING CLASSIFICATION PURSUANT TO SECTION 42-5070 DURING THE PRECEDING FISCAL YEAR.

(ii) THREE PER CENT OF THE GROSS REVENUES DERIVED FROM THE AMUSEMENT CLASSIFICATION PURSUANT TO SECTION 42-5073 DURING THE PRECEDING FISCAL YEAR.

(iii) TWO PER CENT OF THE GROSS REVENUES DERIVED FROM THE RESTAURANT CLASSIFICATION PURSUANT TO SECTION 42-5074 DURING THE PRECEDING FISCAL YEAR.

E. If approved by the qualified electors voting at a statewide general election, all monies collected pursuant to section 42-5010, subsection G and section 42-5155, subsection D shall be distributed each fiscal year pursuant to this subsection. The monies distributed pursuant to this subsection are in addition to any other appropriation, transfer or other allocation of public or private monies from any other source and shall not supplant, replace or cause a reduction in other school district, charter school, university or community college funding sources. The monies shall be distributed as follows:

1. If there are outstanding state school facilities revenue bonds pursuant to title 15, chapter 16, article 7, each month one-twelfth of the amount that is necessary to pay the fiscal year's debt service on outstanding state school improvement revenue bonds for the current fiscal year shall be transferred each month to the school improvement revenue bond debt service fund established by section 15-2084. The total amount of bonds for which these monies may be allocated for the payment of debt service shall not exceed a principal amount of eight hundred million dollars exclusive of refunding bonds and other refinancing obligations.

2. After any transfer of monies pursuant to paragraph 1 of this subsection, twelve per cent of the remaining monies collected during the preceding month shall be transferred to the technology and research initiative fund established by section 15-1648 to be distributed among the universities for the purpose of investment in technology and research-based initiatives.

3. After the transfer of monies pursuant to paragraph 1 of this subsection, three per cent of the remaining monies collected during the preceding month shall be transferred to the workforce development account established in each community college district pursuant to section 15-1472 for the purpose of investment in workforce development programs.

4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, one-twelfth of the amount a community college that is owned, operated or chartered by a qualifying Indian tribe on its own Indian reservation would receive pursuant to section 15-1472, subsection D, paragraph 2 if it were a community college district shall be distributed each month to the treasurer or other designated depository of a qualifying Indian tribe. Monies distributed pursuant to this paragraph are for the exclusive purpose of providing support to one or more community colleges owned, operated or chartered by a qualifying Indian tribe and shall be used in a manner consistent with section 15-1472, subsection B. For the purposes of this paragraph, "qualifying Indian tribe" has the same meaning as defined in section 42-5031.01, subsection D.

5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, one-twelfth of the following amounts shall be transferred each month to the department of education for the increased cost of basic state

aid under section 15-971 due to added school days and associated teacher salary increases enacted in 2000:

(a) In fiscal year 2001-2002, $15,305,900.

(b) In fiscal year 2002-2003, $31,530,100.

(c) In fiscal year 2003-2004, $48,727,700.

(d) In fiscal year 2004-2005, $66,957,200.

(e) In fiscal year 2005-2006 and each fiscal year thereafter, $86,280,500.

6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, seven million eight hundred thousand dollars is appropriated each fiscal year, to be paid in monthly installments, to the department of education to be used for school safety as provided in section 15-154 and two hundred thousand dollars is appropriated each fiscal year, to be paid in monthly installments to the department of education to be used for the character education matching grant program as provided in section 15-154.01.

7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, no more than seven million dollars may be appropriated by the legislature each fiscal year to the department of education to be used for accountability purposes as described in section 15-241 and title 15, chapter 9, article 8.

8. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, one million five hundred thousand dollars is appropriated each fiscal year, to be paid in monthly installments, to the failing schools tutoring fund established by section 15-241.

9. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, twenty-five million dollars shall be transferred each fiscal year to the state general fund to reimburse the general fund for the cost of the income tax credit allowed by section 43-1072.01.

10. After the payment of monies pursuant to paragraphs 1 through 9 of this subsection, the remaining monies collected during the preceding month shall be transferred to the classroom site fund established by section 15-977. The monies shall be allocated as follows in the manner prescribed by section 15-977:

(a) Forty per cent shall be allocated for teacher compensation based on performance.

(b) Twenty per cent shall be allocated for increases in teacher base compensation and employee related expenses.

(c) Forty per cent shall be allocated for maintenance and operation purposes.

F. The department shall credit the remainder of the monies in the transaction privilege and severance tax clearing account to the state general fund, subject to any distribution required by section 42-5030.01.

G. Notwithstanding subsection D of this section, if a court of competent jurisdiction finally determines that tax monies distributed under this section were illegally collected under this article or articles 5 and 8

of this chapter and orders the monies to be refunded to the taxpayer, the department shall compute the amount of such monies that was distributed to each city, town and county under this section. The department shall notify the state treasurer of that amount plus the proportionate share of additional allocated costs required to be paid to the taxpayer. Each city's, town's and county's proportionate share of the costs shall be based on the amount of the original tax payment each municipality and county received. Each month the state treasurer shall reduce the amount otherwise distributable to the city, town and county under this section by one thirty-sixth of the total amount to be recovered from the city, town or county until the total amount has been recovered, but the monthly reduction for any city, town or county shall not exceed ten per cent of the full monthly distribution to that entity. The reduction shall begin for the first calendar month after the final disposition of the case and shall continue until the total amount, including interest and costs, has been recovered.

H. On receiving a certificate of default from the greater Arizona development authority pursuant to section 41-1554.06 or 41-1554.07 and to the extent not otherwise expressly prohibited by law, the state treasurer shall withhold from the next succeeding distribution of monies pursuant to this section due to the defaulting political subdivision the amount specified in the certificate of default and immediately deposit the amount withheld in the greater Arizona development authority revolving fund. The state treasurer shall continue to withhold and deposit the monies until the greater Arizona development authority certifies to the state treasurer that the default has been cured. In no event may the state treasurer withhold any amount that the defaulting political subdivision certifies to the state treasurer and the authority as being necessary to make any required deposits then due for the payment of principal and interest on bonds of the political subdivision that were issued before the date of the loan repayment agreement or bonds and that have been secured by a pledge of distributions made pursuant to this section.

I. Except as provided by sections 42-5033 and 42-5033.01, the population of a county, city or town as determined by the most recent United States decennial census plus any revisions to the decennial census certified by the United States bureau of the census shall be used as the basis for apportioning monies pursuant to subsection D of this section.

J. Except as otherwise provided by this subsection, on notice from the department of revenue pursuant to section 42-6010, subsection B, the state treasurer shall withhold from the distribution of monies pursuant to this section to the affected city or town the amount of the penalty for business location municipal tax incentives provided by the city or town to a business entity that locates a retail business facility in the city or town. The state treasurer shall continue to withhold monies pursuant to this subsection until the entire amount of the penalty has been withheld. The state treasurer shall credit any monies withheld pursuant to this subsection to the state general fund as provided by subsection D, paragraph 4 of this section.

The state treasurer shall not withhold any amount that the city or town certifies to the department of revenue and the state treasurer as being necessary to make any required deposits or payments for debt service on bonds or other long-term obligations of the city or town that were issued or incurred before the location incentives provided by the city or town.

K. On notice from the auditor general pursuant to section 9-626, subsection D, the state treasurer shall withhold from the distribution of monies pursuant to this section to the affected city the amount computed pursuant to section 9-626, subsection D. The state treasurer shall continue to withhold monies pursuant to this subsection until the entire amount specified in the notice has been withheld. The state treasurer shall credit any monies withheld pursuant to this subsection to the state general fund as provided by subsection D, paragraph 4 of this section.

L. For the purposes of this section, "community college district" means a community college district that is established pursuant to sections 15-1402 and 15-1403 and that is a political subdivision of this state.

APPROVED BY THE GOVERNOR APRIL 23, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 2010.