

State of Arizona
Senate
Forty-ninth Legislature
Sixth Special Session
2010

CHAPTER 4
SENATE BILL 1003

AN ACT

AMENDING TITLE 5, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 5.1; RELATING TO STATE FINANCIAL OBLIGATIONS; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 5, Arizona Revised Statutes, is amended by adding
3 chapter 5.1, to read:

4 CHAPTER 5.1

5 STATE LOTTERY REVENUE BONDS

6 ARTICLE 1. REVENUE BONDS

7 5-531. Definitions

8 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "BOND RELATED EXPENSES" MEANS ANY EXPENSES INCURRED BY THE DIRECTOR
10 TO ISSUE AND ADMINISTER THE BONDS, INCLUDING UNDERWRITING FEES AND COSTS,
11 TRUSTEE FEES, FINANCIAL CONSULTANT FEES, PRINTING AND ADVERTISING COSTS,
12 PAYING AGENT FEES, TRANSFER AGENT FEES, LEGAL, ACCOUNTING, FEASIBILITY
13 CONSULTANT AND OTHER PROFESSIONAL FEES AND EXPENSES, BOND INSURANCE OR OTHER
14 CREDIT ENHANCEMENTS OR LIQUIDITY FACILITIES, ATTORNEY AND ACCOUNTING FEES AND
15 EXPENSES RELATED TO CREDIT ENHANCEMENT, BOND INSURANCE OR LIQUIDITY
16 ENHANCEMENT, REMARKETING FEES, RATING AGENCY FEES AND COSTS, TRAVEL AND
17 TELECOMMUNICATIONS EXPENSES AND ALL OTHER FEES CONSIDERED NECESSARY BY THE
18 DIRECTOR IN ORDER TO MARKET AND ADMINISTER THE BONDS.

19 2. "BOND RELATED OBLIGATIONS" MEANS ANY AGREEMENT OR CONTRACTUAL
20 RELATIONSHIP BETWEEN THE DIRECTOR AND ANY BANK, TRUST COMPANY, INSURANCE
21 COMPANY, SURETY BONDING COMPANY, PENSION FUND OR OTHER FINANCIAL INSTITUTION
22 PROVIDING INCREASED CREDIT ON, OR SECURITY FOR, THE BONDS OR LIQUIDITY FOR
23 SECONDARY MARKET TRANSACTIONS AND ANY AGREEMENT TO FUND OR REPLENISH RESERVES
24 FOR THE BONDS.

25 3. "BONDS" MEANS ANY BONDS ISSUED PURSUANT TO THIS ARTICLE.

26 4. "DEPARTMENT" MEANS THE DEPARTMENT OF ADMINISTRATION.

27 5. "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION.

28 5-532. Authorization of state lottery revenue bonds

29 A. THE DIRECTOR SHALL ISSUE STATE LOTTERY REVENUE BONDS PURSUANT TO
30 THIS ARTICLE IN AN AMOUNT SUFFICIENT TO PROVIDE MONIES TO:

31 1. DEPOSIT IN THE STATE GENERAL FUND BY DECEMBER 31, 2010 AN AMOUNT OF
32 NOT MORE THAN FOUR HUNDRED FIFTY MILLION DOLLARS.

33 2. PAY BOND RELATED EXPENSES.

34 3. PAY FEES, CHARGES AND EXPENSES INCURRED WITH RESPECT TO BOND
35 RELATED OBLIGATIONS.

36 4. FULLY OR PARTIALLY FUND ANY RESERVES OR SINKING ACCOUNTS FOR DEBT
37 SERVICE ON THE BONDS ESTABLISHED BY THE BOND DOCUMENTS.

38 B. THE DIRECTOR SHALL AUTHORIZE THE BONDS BY AN APPROPRIATE DOCUMENT
39 SIGNED BY THE DIRECTOR. THE BOND AUTHORIZING DOCUMENT SHALL PRESCRIBE:

40 1. THE FIXED OR VARIABLE RATE OR RATES OF INTEREST, THE DATE OR DATES
41 ON WHICH INTEREST IS PAYABLE AND THE DENOMINATIONS OF THE BONDS.

42 2. THE DATE OR DATES OF THE BONDS AND MATURITY, WITHIN TWENTY YEARS
43 AFTER THE DATE OF ISSUANCE.

44 3. THE FORM OF THE BONDS.

45 4. THE MANNER OF EXECUTING THE BONDS.

46 5. THE MEDIUM AND PLACE OF PAYMENT.

1 6. THE TERMS OF REDEMPTION, WHICH MAY PROVIDE FOR A PREMIUM FOR EARLY
2 REDEMPTION.

3 C. THE BONDS ISSUED PURSUANT TO THIS ARTICLE SHALL BE KNOWN AS STATE
4 LOTTERY REVENUE BONDS.

5 D. THE DIRECTOR SHALL NOTIFY THE JOINT LEGISLATIVE BUDGET COMMITTEE OF
6 THE BOND'S PROPOSED TERMS AND CONDITIONS AT LEAST TEN DAYS BEFORE AN INITIAL
7 PUBLIC OFFERING DOCUMENT IS RELEASED.

8 5-533. Issuance and sale of bonds; state lottery revenue bond
9 proceeds fund; use of bond proceeds

10 A. THE STATE LOTTERY REVENUE BONDS SHALL BE SOLD AT PUBLIC OR PRIVATE
11 SALE AT THE PRICE AND ON THE TERMS PRESCRIBED BY THE DIRECTOR AT, ABOVE OR
12 BELOW PAR. THE FIRST FOUR HUNDRED FIFTY MILLION DOLLARS OF PROCEEDS RECEIVED
13 FROM THE ISSUANCE OF STATE LOTTERY REVENUE BONDS SHALL BE DEPOSITED IN THE
14 STATE GENERAL FUND.

15 B. THE STATE LOTTERY REVENUE BOND PROCEEDS FUND IS ESTABLISHED.
16 EXCEPT AS PROVIDED IN SUBSECTION A, THE FUND SHALL CONSIST OF THE NET
17 PROCEEDS RECEIVED FROM THE SALE OF ANY STATE LOTTERY REVENUE BONDS ISSUED BY
18 THE DIRECTOR PURSUANT TO THIS ARTICLE. THE DEPARTMENT SHALL ADMINISTER THE
19 FUND.

20 C. THE DIRECTOR MAY USE MONIES IN THE STATE LOTTERY REVENUE BOND
21 PROCEEDS FUND ONLY FOR THE PURPOSES PROVIDED IN SECTION 5-532, SUBSECTION A,
22 PARAGRAPHS 2, 3 AND 4. THE MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS
23 OF SECTION 35-190 RELATING TO THE LAPSING OF APPROPRIATIONS.

24 5-534. State lottery revenue bond debt service fund

25 A. THE STATE LOTTERY REVENUE BOND DEBT SERVICE FUND IS ESTABLISHED.
26 THE FUND SHALL CONSIST OF MONIES TRANSFERRED PURSUANT TO LAW. THE DEPARTMENT
27 SHALL ADMINISTER AND ACCOUNT FOR THE STATE LOTTERY REVENUE BOND DEBT SERVICE
28 FUND.

29 B. IF THE DIRECTOR ISSUES STATE LOTTERY REVENUE BONDS:

30 1. AMOUNTS DISTRIBUTABLE TO THE STATE GENERAL FUND FROM THE STATE
31 LOTTERY FUND PURSUANT TO SECTION 5-522 SHALL BE TRANSFERRED FIRST TO THE
32 STATE LOTTERY BOND DEBT SERVICE FUND UNTIL THE STATE LOTTERY BOND DEBT
33 SERVICE FUND CONTAINS MONIES SUFFICIENT TO MEET ALL REQUIREMENTS FOR THE
34 CURRENT PERIOD AS REQUIRED BY THE BOND DOCUMENTS AND, AFTER THE REQUIREMENTS
35 FOR THE CURRENT PERIOD AS REQUIRED BY THE BOND DOCUMENTS HAVE BEEN SATISFIED,
36 SHALL BE TRANSFERRED TO THE STATE GENERAL FUND.

37 2. AFTER PAYMENT OF THE STATE LOTTERY OPERATING EXPENSES, AMOUNTS
38 DISTRIBUTABLE FROM THE STATE LOTTERY FUND PURSUANT TO SECTION 5-572 SHALL BE
39 TRANSFERRED FIRST TO THE STATE LOTTERY BOND DEBT SERVICE FUND UNTIL THE STATE
40 LOTTERY BOND DEBT SERVICE FUND CONTAINS MONIES SUFFICIENT TO MEET ALL
41 REQUIREMENTS FOR THE CURRENT PERIOD AS REQUIRED BY THE BOND DOCUMENTS AND,
42 AFTER THE REQUIREMENTS FOR THE CURRENT PERIOD AS REQUIRED BY THE BOND
43 DOCUMENTS HAVE BEEN SATISFIED, SHALL BE TRANSFERRED IN ACCORDANCE WITH
44 SECTION 5-572.

45 C. MONIES IN THE STATE LOTTERY REVENUE BOND DEBT SERVICE FUND MAY BE
46 USED ONLY FOR THE PURPOSES AUTHORIZED BY THIS ARTICLE.

1 5-535. Securing principal and interest; refunding bonds

2 A. IN CONNECTION WITH ISSUING STATE LOTTERY REVENUE BONDS AUTHORIZED
3 BY THIS ARTICLE AND TO SECURE THE PRINCIPAL AND INTEREST ON THE BONDS, THE
4 DIRECTOR MAY:

5 1. SEGREGATE THE STATE LOTTERY REVENUE BOND DEBT SERVICE FUND INTO ONE
6 OR MORE ACCOUNTS AND SUBACCOUNTS AND PROVIDE THAT BONDS ISSUED UNDER THIS
7 ARTICLE MAY BE SECURED BY A LIEN ON ALL OR PART OF THE MONIES PAID INTO THE
8 STATE LOTTERY REVENUE BOND DEBT SERVICE FUND OR INTO ANY ACCOUNT OR
9 SUBACCOUNT IN THE FUND.

10 2. PROVIDE THAT THE BONDS ISSUED UNDER THIS ARTICLE ARE SECURED BY A
11 FIRST LIEN ON THE MONIES PAID INTO THE STATE LOTTERY REVENUE BOND DEBT
12 SERVICE FUND AND PAID INTO THE STATE LOTTERY FUND TO BE PLACED IN THE STATE
13 LOTTERY BOND DEBT SERVICE FUND AS PROVIDED IN THIS ARTICLE AND PLEDGE AND
14 ASSIGN TO OR IN TRUST FOR THE BENEFIT OF THE HOLDER OR HOLDERS OF THE BONDS
15 ALL OR PART OF THE MONIES IN THE STATE LOTTERY REVENUE BOND DEBT SERVICE
16 FUND, IN ANY ACCOUNT OR SUBACCOUNT IN THE STATE LOTTERY REVENUE BOND DEBT
17 SERVICE FUND OR IN THE STATE LOTTERY REVENUE BOND PROCEEDS FUND AS IS
18 NECESSARY TO SECURE AND PAY THE PRINCIPAL, THE INTEREST AND ANY PREMIUM ON
19 THE BONDS AS THEY COME DUE.

20 3. ESTABLISH PRIORITIES AMONG BONDHOLDERS BASED ON CRITERIA ADOPTED BY
21 THE DIRECTOR.

22 4. SET ASIDE, REGULATE AND DISPOSE OF RESERVES AND SINKING ACCOUNTS.

23 5. PRESCRIBE THE PROCEDURE, IF ANY, BY WHICH THE TERMS OF ANY CONTRACT
24 WITH BONDHOLDERS MAY BE AMENDED OR ABROGATED, THE AMOUNT OF BONDS THE HOLDERS
25 OF WHICH MUST CONSENT TO AND THE MANNER IN WHICH THE CONSENT MAY BE GIVEN.

26 6. PROVIDE FOR PAYMENT OF BOND RELATED EXPENSES FROM THE PROCEEDS OF
27 THE SALE OF THE BONDS OR OTHER REVENUES AUTHORIZED BY THIS ARTICLE AND
28 AVAILABLE TO THE DIRECTOR.

29 7. PROVIDE FOR THE SERVICES OF TRUSTEES, COTRUSTEES, AGENTS AND
30 CONSULTANTS AND OTHER SPECIALIZED SERVICES WITH RESPECT TO THE BONDS.

31 8. TAKE ANY OTHER ACTION THAT IN ANY WAY MAY AFFECT THE SECURITY AND
32 PROTECTION OF THE BONDS OR INTEREST ON THE BONDS.

33 9. REFUND ANY BONDS ISSUED BY THE DIRECTOR BY ISSUING NEW BONDS, IF
34 THESE BONDS ARE SECURED FROM THE SAME SOURCE OF REVENUES AS THE BONDS
35 AUTHORIZED BY THIS ARTICLE.

36 10. ISSUE BONDS PARTLY TO REFUND OUTSTANDING BONDS AND PARTLY FOR ANY
37 OTHER PURPOSE CONSISTENT WITH THIS ARTICLE.

38 B. IF STATE LOTTERY REVENUE BONDS ARE ISSUED, THE DIRECTOR SHALL
39 PROVIDE TO THE STATE LOTTERY COMMISSION A SCHEDULE OF THE AMOUNT NEEDED TO
40 PAY EACH FISCAL YEAR'S DEBT SERVICE ON OUTSTANDING STATE LOTTERY REVENUE
41 BONDS, INCLUDING SINKING FUND AND RESERVE FUND DEPOSITS PURSUANT TO THE TERMS
42 OF THE BONDS, BOND RELATED EXPENSES AND AMOUNTS PAYABLE WITH RESPECT TO BOND
43 RELATED OBLIGATIONS.

44 5-536. Lien of pledge

45 A. ANY PLEDGE MADE UNDER THIS ARTICLE IN CONNECTION WITH STATE LOTTERY
46 REVENUE BONDS IS VALID AND BINDING FROM THE TIME THE PLEDGE IS MADE.

1 B. THE MONIES PLEDGED AND RECEIVED BY THE STATE LOTTERY REVENUE BOND
2 DEBT SERVICE FUND AND BY THE STATE LOTTERY FUND TO BE PLACED IN THE STATE
3 LOTTERY REVENUE BOND DEBT SERVICE FUND ARE IMMEDIATELY SUBJECT TO THE LIEN OF
4 THE PLEDGE WITHOUT ANY FUTURE PHYSICAL DELIVERY OR FURTHER ACT. ANY LIEN OF
5 ANY PLEDGE IS VALID AND BINDING AGAINST ALL PARTIES THAT HAVE CLAIMS OF ANY
6 KIND AGAINST THE STATE, REGARDLESS OF WHETHER THE PARTIES HAVE NOTICE OF THE
7 LIEN. THE OFFICIAL RESOLUTION OR TRUST INDENTURE OR ANY INSTRUMENT BY WHICH
8 THIS PLEDGE IS CREATED WHEN ADOPTED BY THE DIRECTOR, IS NOTICE TO ALL
9 CONCERNED OF THE CREATION OF THE PLEDGE, AND THOSE INSTRUMENTS NEED NOT BE
10 RECORDED IN ANY OTHER PLACE TO PERFECT THE PLEDGE.

11 5-537. Bond purchase; cancellation

12 THE DIRECTOR MAY PURCHASE BONDS FOR CANCELLATION OUT OF ANY MONIES
13 AVAILABLE FOR THE PURCHASE, AT A PRICE OF NOT MORE THAN EITHER OF THE
14 FOLLOWING:

15 1. IF THE BONDS ARE REDEEMABLE AT THE TIME OF THE PURCHASE, THE
16 APPLICABLE REDEMPTION PRICE PLUS ACCRUED INTEREST TO THE NEXT INTEREST
17 PAYMENT DATE ON THE BONDS.

18 2. IF THE BONDS ARE NOT REDEEMABLE AT THE TIME OF THE PURCHASE, THE
19 APPLICABLE REDEMPTION PRICE ON THE FIRST DATE AFTER THE PURCHASE ON WHICH THE
20 BONDS BECOME SUBJECT TO REDEMPTION PLUS ACCRUED INTEREST TO THAT DATE.

21 5-538. Payment of bonds

22 THE STATE LOTTERY REVENUE BONDS SHALL BE PAID SOLELY FROM MONIES FROM
23 THE STATE LOTTERY REVENUE BOND DEBT SERVICE FUND ESTABLISHED BY SECTION
24 5-534.

25 5-539. Investment of monies; funds

26 A. THE DIRECTOR MAY AUTHORIZE THE STATE TREASURER OR BOND TRUSTEE TO
27 INVEST MONIES IN THE STATE LOTTERY REVENUE BOND PROCEEDS FUND AND THE STATE
28 LOTTERY REVENUE BOND DEBT SERVICE FUND.

29 B. THE ORDER DIRECTING AN INVESTMENT MAY STATE A SPECIFIED TIME WHEN
30 THE MONIES INVESTED WILL BE USED. THE STATE TREASURER OR BOND TRUSTEE SHALL
31 MAKE THE INVESTMENT IN SUCH A WAY AS TO MATURE AT THE SPECIFIED DATE.

32 C. ALL MONIES EARNED AS INTEREST OR OTHERWISE DERIVED FROM THE
33 INVESTMENT OF THE MONIES IN THE STATE LOTTERY REVENUE BOND PROCEEDS FUND AND
34 THE STATE LOTTERY REVENUE BOND DEBT SERVICE FUND SHALL BE CREDITED TO THE
35 STATE LOTTERY REVENUE BOND DEBT SERVICE FUND ESTABLISHED BY SECTION 5-534.

36 D. AT THE DIRECTION OF THE DIRECTOR, THE STATE TREASURER OR BOND
37 TRUSTEE MAY INVEST OR REINVEST MONIES IN THE STATE LOTTERY REVENUE BOND
38 PROCEEDS FUND AND THE STATE LOTTERY REVENUE BOND DEBT SERVICE FUND IN
39 INVESTMENTS AUTHORIZED BY SECTION 35-313. THE PURCHASE OF THE SECURITIES
40 SHALL BE MADE BY THE STATE TREASURER OR BOND TRUSTEE ON AUTHORITY OF THE
41 DIRECTOR. THE TREASURER OR BOND TRUSTEE SHALL ACT AS CUSTODIAN OF ALL
42 SECURITIES PURCHASED. THE SECURITIES MAY BE SOLD ON AN ORDER OF THE
43 DIRECTOR.

44 5-540. Characteristics of bonds; negotiable; exemption from
45 taxation; obligation; legal investments

1 5-542. Validity of bonds

2 A. THIS ARTICLE CONSTITUTES FULL AUTHORITY FOR AUTHORIZING AND ISSUING
3 STATE LOTTERY REVENUE BONDS WITHOUT REFERENCE TO ANY OTHER LAW OF THIS STATE.
4 NO OTHER LAW WITH REGARD TO AUTHORIZING OR ISSUING OBLIGATIONS OR THAT IN ANY
5 WAY IMPEDES OR RESTRICTS PERFORMING THE ACTS AUTHORIZED BY THIS ARTICLE MAY
6 BE CONSTRUED TO APPLY TO ANY PROCEEDINGS TAKEN OR ACTS DONE PURSUANT TO THIS
7 ARTICLE.

8 B. THE VALIDITY OF BONDS ISSUED UNDER THIS ARTICLE DOES NOT DEPEND ON
9 AND IS NOT AFFECTED BY THE LEGALITY OF ANY PROCEEDING RELATING TO ANY ACTION
10 RELATING TO APPLICATION OF THE PROCEEDS OF THE BONDS.

11 C. THE BONDS SHALL RECITE THAT THEY ARE REGULARLY ISSUED PURSUANT TO
12 THIS ARTICLE. THAT RECITAL CONSTITUTES PRIMA FACIE EVIDENCE OF THE LEGALITY
13 AND VALIDITY OF THE BONDS. FROM AND AFTER THE SALE AND DELIVERY OF THE
14 BONDS, THEY ARE INCONTESTABLE BY THE DIRECTOR OR THIS STATE.

15 5-543. State officials to comply with agreements

16 NOTWITHSTANDING ANY OTHER LAW, ALL STATE OFFICIALS SHALL COMPLY WITH
17 ALL AGREEMENTS MADE BY THE DIRECTOR WITH OR FOR THE BENEFIT OF THE OWNERS OF
18 ITS STATE LOTTERY REVENUE BONDS. THE EXECUTIVE DIRECTOR OF THE STATE LOTTERY
19 COMMISSION SHALL PROVIDE ASSISTANCE AND INFORMATION AS REQUESTED BY THE
20 DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION TO ACCOMPLISH THE PURPOSES OF
21 THIS ARTICLE AND THE ISSUANCE, SALE AND ADMINISTRATION OF THE BONDS.

22 Sec. 2. State owned facilities; lease-purchase finance agreement

23 A. Not later than September 30, 2010, the department of administration
24 shall enter into one or more lease-purchase agreements through the sale and
25 simultaneous lease-purchase of any state owned facility or facilities. If
26 the lease-purchase agreement involves a state department of corrections
27 facility, the department of administration shall enter into the
28 lease-purchase agreement in consultation with the state department of
29 corrections. The agreement or agreements shall:

30 1. Result in net available proceeds of not more than \$300,000,000 in
31 the state general fund by September 30, 2010, in addition to the amount
32 derived from lease-purchase agreements authorized by Laws 2009, third special
33 session, chapter 6, section 32.

34 2. Be for a fixed term of not more than twenty years.

35 3. Require the initial lease-purchase payment to be in fiscal year
36 2010-2011.

37 4. Be entered into with a bank trustee selected by the director of the
38 department of administration and provide for the issuance of certificates of
39 participation.

40 B. Notwithstanding section 41-791.02, Arizona Revised Statutes, any
41 lease-purchase agreement entered into pursuant to this section shall provide
42 that:

43 1. The obligation of this state to make any payment under the
44 agreement is a current expense of the department of administration, payable
45 exclusively from appropriated monies, and is not a general obligation
46 indebtedness of this state or the department of administration.

1 2. If the legislature fails to appropriate monies or the department of
2 administration fails to allocate such monies for any payment under the
3 agreement, the agreement terminates at the end of the current term and this
4 state and the department of administration are relieved of any subsequent
5 obligation under the agreement.

6 3. The department of administration may covenant to use its best
7 efforts to budget, obtain, allocate and maintain sufficient appropriated
8 monies to make payments under the agreement, but the agreement shall
9 acknowledge that appropriating state monies is a legislative act and is
10 beyond the control of the department of administration or any other party to
11 the agreement.

12 C. Notwithstanding any other law, the department of administration may
13 transfer some or all of this state's interest in any state department of
14 corrections prison facility or any other state owned facility. Any
15 agreements or transactions determined by the department of administration to
16 be necessary to comply with the requirements of this section are exempt from
17 title 41, chapter 23, Arizona Revised Statutes. The authority conferred by
18 this section is in addition to the powers conferred by any other law, without
19 reference to any other law, and is full authority for the actions authorized
20 by this section, including entering into and performing agreements without
21 regard to the requirements or procedures of any other law.

22 D. This state shall maintain operations at any facility and the state
23 department of corrections or a private contractor shall maintain operations
24 at any prison facility that is sold pursuant to this section.

25 E. The department of administration shall notify the joint committee
26 on capital review of the lease-purchase agreement's proposed terms and
27 conditions at least ten days before an initial public offering document is
28 released.

29 Sec. 3. Conditional enactment

30 Title 5, chapter 5.1, Arizona Revised Statutes, as added by this act,
31 does not become effective unless Senate Bill 1004, forth-ninth legislature,
32 sixth special session, relating to the state lottery, becomes law.

APPROVED BY THE GOVERNOR FEBRUARY 12, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE FEBRUARY 12, 2010.