

State of Arizona  
Senate  
Fifty-third Legislature  
First Regular Session  
2017

# SENATE BILL 1211

## AN ACT

AMENDING SECTIONS 28-334, 28-3001 AND 28-6540, ARIZONA REVISED STATUTES; REPEALING SECTIONS 28-6543 AND 28-6544, ARIZONA REVISED STATUTES; AMENDING SECTION 28-9203, ARIZONA REVISED STATUTES; REPEALING SECTION 41-2501, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2016, CHAPTER 341, SECTION 4; AMENDING SECTION 41-2501, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2016, CHAPTER 214, SECTION 2 AND CHAPTER 312, SECTION 7; RELATING TO THE DEPARTMENT OF TRANSPORTATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-334, Arizona Revised Statutes, is amended to  
3 read:

4 28-334. Acceptance and expenditure of federal monies:  
5 limitations

6 A. The department may accept and expend grants, donations, aid or  
7 other monies received from the federal government or any agency of the  
8 federal government for any transportation purpose.

9 B. The department may contract and do all things necessary to  
10 secure the full benefits available to this state for transportation  
11 purposes under federal law and, in doing so, may cooperate with federal,  
12 state and local government agencies, Indian tribes, private and public  
13 organizations and private individuals. The department may exchange  
14 federal funds with local governments in order to receive local funds and  
15 may include additional federal funds in the exchange to offset matching  
16 costs required of local governments.

17 C. THE DEPARTMENT MAY:

18 1. ASSUME THE RESPONSIBILITY OF THE UNITED STATES DEPARTMENT OF  
19 TRANSPORTATION WITH RESPECT TO HIGHWAY PROJECTS WITH THIS STATE UNDER THE  
20 NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (P.L. 91-190; 83 STAT. 852; 42  
21 UNITED STATES CODE SECTIONS 4321 THROUGH 4347) AND WITH RESPECT TO RELATED  
22 RESPONSIBILITY FOR ENVIRONMENT REVIEW, CONSULTATION OR OTHER ACTION  
23 REQUIRED UNDER ANY FEDERAL ENVIRONMENTAL LAW PERTAINING TO REVIEW OR  
24 APPROVAL OF A HIGHWAY PROJECT IN THIS STATE.

25 2. ASSUME RESPONSIBILITY UNDER 23 UNITED STATES CODE SECTIONS 326  
26 AND 327 AND ENTER INTO ONE OR MORE AGREEMENTS, INCLUDING MEMORANDA OF  
27 UNDERSTANDING WITH THE UNITED STATES SECRETARY OF TRANSPORTATION RELATED  
28 TO THE STATE ASSUMPTION OF RESPONSIBILITY FOR CATEGORICAL EXCLUSIONS AS  
29 PROVIDED BY 23 UNITED STATES CODE SECTION 326 AND THE FEDERAL SURFACE  
30 TRANSPORTATION PROJECT DELIVERY PROGRAM FOR THE DELIVERY OF HIGHWAY  
31 PROJECTS AS PROVIDED BY 23 UNITED STATES CODE SECTION 327. SOVEREIGN  
32 IMMUNITY FROM CIVIL SUIT IN FEDERAL COURT IS WAIVED CONSISTENT WITH 23  
33 UNITED STATES CODE SECTIONS 326 AND 327 AND LIMITED TO THE COMPLIANCE,  
34 DISCHARGE OR ENFORCEMENT OF A RESPONSIBILITY ASSUMED BY THE DEPARTMENT  
35 UNDER THIS PARAGRAPH.

36 ~~C.~~ D. This chapter ~~shall~~ DOES not ~~be construed to~~ affect the  
37 authority of other agencies or boards of this state or political  
38 subdivisions from accepting, receiving or expending grants or other monies  
39 from the federal government or any agency of the federal government for  
40 transportation purposes pursuant to other provisions of law or charter.

41 Sec. 2. Section 28-3001, Arizona Revised Statutes, is amended to  
42 read:

43 28-3001. Definitions

44 In this chapter, unless the context otherwise requires:

1       1. "Cancellation" means the annulment or termination of a driver  
2 license because of an error or defect or because the licensee is no longer  
3 entitled to the license.

4       2. "Commercial driver license" means a license that is issued to an  
5 individual and that authorizes the individual to operate a class of  
6 commercial motor vehicles.

7       3. "Commercial motor vehicle" means a motor vehicle or combination  
8 of motor vehicles that is used in commerce to transport passengers or  
9 property and that includes any of the following:

10       (a) A motor vehicle or combination of motor vehicles that has a  
11 gross combined weight rating of twenty-six thousand one or more pounds  
12 inclusive of a towed unit with a gross vehicle weight rating of more than  
13 ten thousand pounds.

14       (b) A motor vehicle that has a gross vehicle weight rating of  
15 twenty-six thousand one or more pounds.

16       (c) A bus.

17       (d) A motor vehicle or combination of motor vehicles that is used  
18 in the transportation of materials found to be hazardous for the purposes  
19 of the hazardous materials transportation authorization act of 1994 (49  
20 United States Code sections 5101 through 5128) and is required to be  
21 placarded under 49 Code of Federal Regulations section 172.504, as adopted  
22 by the department pursuant to chapter 14 of this title.

23       4. "Conviction" has the same meaning prescribed in section 28-101  
24 and also means a final conviction or judgment, including an order of a  
25 juvenile court finding that a juvenile has violated a provision of this  
26 title or has committed a delinquent act that if committed by an adult  
27 constitutes any of the following:

28       (a) Criminal damage to property pursuant to section 13-1602,  
29 subsection A, paragraph 1.

30       (b) A felony offense in the commission of which a motor vehicle was  
31 used, including theft of a motor vehicle pursuant to section 13-1802,  
32 unlawful use of means of transportation pursuant to section 13-1803 or  
33 theft of means of transportation pursuant to section 13-1814.

34       (c) A forfeiture of bail or collateral deposited to secure a  
35 defendant's appearance in court that has not been vacated.

36       5. "Disqualification" means a prohibition from obtaining a  
37 commercial driver license or driving a commercial motor vehicle.

38       6. "Employer" means a person, including the United States, a state  
39 or a political subdivision of a state, that owns or leases a commercial  
40 motor vehicle or that assigns a person to operate a commercial motor  
41 vehicle.

42       7. "Endorsement" means an authorization that is added to an  
43 individual's driver license and that is required to permit the individual  
44 to operate certain types of vehicles.

45       8. "Foreign" means outside the United States.

1           9. "Gross vehicle weight rating" means the weight that is assigned  
2 by the vehicle manufacturer to a vehicle and that represents the maximum  
3 recommended total weight including the vehicle and the load for the  
4 vehicle.

5           10. "Judgment" means a final judgment and any of the following:

6           (a) The finding by a court that an individual is responsible for a  
7 civil traffic violation.

8           (b) An individual's admission of responsibility for a civil traffic  
9 violation.

10          (c) The voluntary or involuntary forfeiture of deposit in  
11 connection with a civil traffic violation.

12          (d) A default judgment entered by a court pursuant to section  
13 28-1596.

14          11. "License class" means, for the purpose of determining the  
15 appropriate class of driver license required for the type of motor vehicle  
16 or vehicle combination a driver intends to operate or is operating, the  
17 class of driver license prescribed in section 28-3101.

18          12. "Nondomiciled commercial driver license" means a commercial  
19 driver license issued to an individual domiciled in a foreign country or  
20 to an individual domiciled in another state if that state is prohibited  
21 from issuing commercial driver licenses.

22          13. "Original applicant" means any of the following:

23          (a) An applicant who has never been licensed or cannot provide  
24 evidence of licensing.

25          (b) An applicant who is applying for a higher class of driver  
26 license than the license currently held by the applicant.

27          (c) An applicant who has a license from a foreign country.

28          14. "Revocation" means that the driver license and driver's  
29 privilege to drive a motor vehicle on the public highways of this state  
30 are terminated and shall not be renewed or restored, except that an  
31 application for a new license may be presented and acted on by the  
32 department after one year from the date of revocation.

33          15. "State of domicile" means the state or jurisdiction where a  
34 person has the person's true, fixed and permanent home and principal  
35 residence and to which the person has the intention of returning after an  
36 absence.

37          16. "Suspension" means that the driver license and driver's  
38 privilege to drive a motor vehicle on the public highways of this state  
39 are temporarily withdrawn during the period of the suspension ~~and until~~  
40 ~~application for reinstatement is made.~~

41          17. "Vehicle combination" means a motor vehicle and a vehicle in  
42 excess of ten thousand pounds gross vehicle weight that it tows, if the  
43 combined gross vehicle weight rating is more than twenty-six thousand  
44 pounds.

1       Sec. 3. Section 28-6540, Arizona Revised Statutes, is amended to  
2 read:

3       28-6540. Arizona highway user revenue fund distribution;  
4               county, city and town proportions

5       Each month the state treasurer shall distribute all revenues  
6 credited to the Arizona highway user revenue fund pursuant to the  
7 proportions prescribed in section 28-6538, subsection A as follows:

8       1. Revenues allocated to the counties shall be further distributed  
9 to each individual county, ~~the distribution to which was not restricted~~  
10 ~~pursuant to section 28-6543, subsection A,~~ as follows:

11       (a) Seventy-two ~~per cent~~ PERCENT based on the proportion that all  
12 reported sales of motor vehicle fuel subject to sections 28-5619 and  
13 28-5620 and the estimated consumption of use fuel in the county bear to  
14 the total sales of motor vehicle fuel and the estimated consumption of use  
15 fuel throughout this state during the preceding calendar month.

16       (b) Twenty-eight ~~per cent~~ PERCENT based on the proportion that the  
17 population of the unincorporated area of each county bears to the  
18 population of the unincorporated areas of all counties in this state.

19       2. Revenues allocated to the incorporated cities and towns pursuant  
20 to section 28-6538, subsection A, paragraph 3 shall be distributed on the  
21 basis of the following apportionments:

22       (a) One-half shall be apportioned to each city or town, ~~the~~  
23 ~~distribution to which was not restricted pursuant to section 28-6543,~~  
24 ~~subsection A,~~ on the basis that the population of each bears to the  
25 population of all cities and towns in this state.

26       (b) ~~Subject to section 28-6543, subsection A,~~ The remaining  
27 one-half shall be apportioned first on the basis of the county origin of  
28 all reported sales of motor vehicle fuels in this state subject to  
29 sections 28-5619 and 28-5620, which amount shall be further apportioned  
30 among the several incorporated cities and towns in each county in the  
31 proportion that the population of each city or town bears to the total  
32 population of all cities and towns in the county.

33       3. Revenues allocated to incorporated cities with a population of  
34 three hundred thousand or more persons shall be apportioned among the  
35 cities, ~~the distribution to which was not restricted pursuant to section~~  
36 ~~28-6543, subsection A,~~ for the acquisition of rights-of-way or  
37 construction of streets or highways based on population.

38       Sec. 4. Repeal

39       Sections 28-6543 and 28-6544, Arizona Revised Statutes, are  
40 repealed.

41       Sec. 5. Section 28-9203, Arizona Revised Statutes, is amended to  
42 read:

43       28-9203. Risk management: payment of costs

44       The organization that operates a light rail transit system shall:

1           1. Pay for any risk management costs the department incurs  
2 resulting from the department's safety oversight of light rail transit  
3 systems pursuant to this chapter.

4           2. Pay for judgments against this state resulting from the  
5 department's safety oversight of light rail transit systems pursuant to  
6 this chapter.

7           ~~3. Pay the department's costs resulting from administering this~~  
8 ~~chapter.~~

9           Sec. 6. Repeal

10           Section 41-2501, Arizona Revised Statutes, as amended by Laws 2016,  
11 chapter 341, section 4, is repealed.

12           Sec. 7. Section 41-2501, Arizona Revised Statutes, as amended by  
13 Laws 2016, chapter 214, section 2 and chapter 312, section 7, is amended  
14 to read:

15           41-2501. Applicability

16           A. This chapter applies only to procurements initiated after  
17 January 1, 1985 unless the parties agree to its application to  
18 procurements initiated before that date.

19           B. This chapter applies to every expenditure of public monies,  
20 including federal assistance monies except as otherwise specified in  
21 section 41-2637, by this state, acting through a state governmental unit  
22 as defined in this chapter, under any contract, except that this chapter  
23 does not apply to either grants as defined in this chapter, or contracts  
24 between this state and its political subdivisions or other governments,  
25 except as provided in chapter 24 of this title and in article 10 of this  
26 chapter. This chapter also applies to the disposal of state materials.  
27 This chapter and rules adopted under this chapter do not prevent any state  
28 governmental unit or political subdivision from complying with the terms  
29 of any grant, gift, bequest or cooperative agreement.

30           C. All political subdivisions and other local public agencies of  
31 this state may adopt all or any part of this chapter and the rules adopted  
32 pursuant to this chapter.

33           D. Notwithstanding any other law, sections 41-2517 and 41-2546  
34 apply to any agency as defined in section 41-1001, including the office of  
35 the governor.

36           E. The Arizona board of regents and the legislative and judicial  
37 branches of state government are not subject to this chapter except as  
38 prescribed in subsection F of this section.

39           F. The Arizona board of regents and the judicial branch shall adopt  
40 rules prescribing procurement policies and procedures for themselves and  
41 institutions under their jurisdiction. The rules must be substantially  
42 equivalent to the policies and procedures prescribed in this chapter.

43           G. The Arizona state lottery commission is exempt from this chapter  
44 for procurement relating to the design and operation of the lottery or  
45 purchase of lottery equipment, tickets and related materials. The

1 executive director of the Arizona state lottery commission shall adopt  
2 rules substantially equivalent to the policies and procedures in this  
3 chapter for procurement relating to the design and operation of the  
4 lottery or purchase of lottery equipment, tickets or related materials.  
5 All other procurement shall be as prescribed by this chapter.

6 H. The Arizona health care cost containment system administration  
7 is exempt from this chapter for provider contracts pursuant to section  
8 36-2904, subsection A and contracts for goods and services, including  
9 program contractor contracts pursuant to title 36, chapter 29, articles 2  
10 and 3 and contracts with regional behavioral health authorities pursuant  
11 to title 36, chapter 34. All other procurement, including contracts for  
12 the statewide administrator of the program pursuant to section 36-2903,  
13 subsection B, shall be as prescribed by this chapter.

14 ~~I. Arizona industries for the blind is exempt from this chapter for~~  
15 ~~purchases of finished goods from members of national industries for the~~  
16 ~~blind and for purchases of raw materials for use in the manufacture of~~  
17 ~~products for sale pursuant to section 41-1972. All other procurement~~  
18 ~~shall be as prescribed by this chapter.~~

19 ~~J. I.~~ I. Arizona correctional industries is exempt from this chapter  
20 for purchases of raw materials, components and supplies that are used in  
21 the manufacture or production of goods or services for sale entered into  
22 pursuant to section 41-1622. All other procurement shall be as prescribed  
23 by this chapter.

24 ~~K. J.~~ J. The state transportation board and the director of the  
25 department of transportation are exempt from this chapter other than  
26 ~~section~~ SECTIONS 41-2517 AND 41-2586 AND ARE SUBJECT TO TITLE 28, CHAPTER  
27 20 AND 2 CODE OF FEDERAL REGULATIONS SECTION 200.317 for the procurement  
28 of ~~construction or reconstruction, including engineering services, of~~  
29 ~~transportation facilities or highway facilities and any other services~~  
30 ~~that are directly related to land titles, appraisals, real property~~  
31 ~~acquisition, relocation, property management or building facility design~~  
32 ~~and construction for highway development and that are required pursuant to~~  
33 ~~title 28, chapter 20. THE FOLLOWING:~~

34 1. ALL ITEMS OF CONSTRUCTION, RECONSTRUCTION, REHABILITATION,  
35 PRESERVATION OR IMPROVEMENT UNDERTAKEN ON HIGHWAY INFRASTRUCTURE.

36 2. ENGINEERING SERVICES AND ANY OTHER WORK OR ACTIVITY TO CARRY OUT  
37 ENGINEERING SERVICES RELATED TO HIGHWAY INFRASTRUCTURE.

38 3. RIGHT-OF-WAY SERVICES RELATED TO LAND TITLES, APPRAISALS, REAL  
39 PROPERTY ACQUISITIONS, RELOCATION SERVICES, PROPERTY MANAGEMENT AND  
40 FACILITY DESIGN.

41 4. ANY OTHER CONSTRUCTION, RECONSTRUCTION, REHABILITATION,  
42 PRESERVATION OR IMPROVEMENT WORK OR ACTIVITY THAT IS REQUIRED PURSUANT TO  
43 TITLE 28, CHAPTER 20.

44 ~~L. K.~~ K. The Arizona highways magazine is exempt from this chapter  
45 for contracts for the production, promotion, distribution and sale of the

1 magazine and related products and for contracts for sole source creative  
2 works entered into pursuant to section 28-7314, subsection A, paragraph 5.  
3 All other procurement shall be as prescribed by this chapter.

4 ~~M.~~ L. The secretary of state is exempt from this chapter for  
5 contracts entered into pursuant to section 41-1012 to publish and sell the  
6 administrative code. All other procurement shall be as prescribed by this  
7 chapter.

8 ~~N.~~ M. This chapter is not applicable to contracts for professional  
9 witnesses if the purpose of such contracts is to provide for professional  
10 services or testimony relating to an existing or probable judicial  
11 proceeding in which this state is or may become a party or to contract for  
12 special investigative services for law enforcement purposes.

13 ~~O.~~ N. The head of any state governmental unit, in relation to any  
14 contract exempted by this section from this chapter, has the same  
15 authority to adopt rules, procedures or policies as is delegated to the  
16 director pursuant to this chapter.

17 ~~P.~~ O. Agreements negotiated by legal counsel representing this  
18 state in settlement of litigation or threatened litigation are exempt from  
19 this chapter.

20 ~~Q.~~ P. This chapter is not applicable to contracts entered into by  
21 the department of economic security:

22 1. With a provider licensed or certified by an agency of this state  
23 to provide child day care services.

24 2. With area agencies on aging created pursuant to the older  
25 Americans act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code  
26 sections 3001 through 3058ff).

27 3. For services pursuant to title 36, chapter 29, article 2.

28 4. With an eligible entity as defined by Public Law 105-285,  
29 section 673(1)(A)(i), as amended, for designated community services block  
30 grant program monies and any other monies given to the eligible entity  
31 that accomplishes the purpose of Public Law 105-285, section 672.

32 ~~R.~~ Q. The Arizona health care cost containment system may not  
33 require that persons with whom it contracts follow this chapter for the  
34 purposes of subcontracts entered into for the provision of the following:

35 1. Mental health services pursuant to section 36-189, subsection B.

36 2. Services for the seriously mentally ill pursuant to title 36,  
37 chapter 5, article 10.

38 3. Drug and alcohol services pursuant to section 36-141.

39 ~~S.~~ R. The department of health services may not require that  
40 persons with whom it contracts follow this chapter for the purpose of  
41 subcontracts entered into for the provision of domestic violence services  
42 pursuant to title 36, chapter 30, article 1.

43 ~~T.~~ S. The department of health services is exempt from this  
44 chapter for contracts for services of physicians at the Arizona state  
45 hospital.



1       ~~U.~~ T. Contracts for goods and services approved by the board of  
2 trustees of the public safety personnel retirement system are exempt from  
3 this chapter.

4       ~~V.~~ U. The Arizona department of agriculture is exempt from this  
5 chapter with respect to contracts for private labor and equipment to  
6 effect cotton or cotton stubble plow-up pursuant to rules adopted under  
7 title 3, chapter 2, article 1.

8       ~~W.~~ V. The Arizona state parks board is exempt from this chapter  
9 for purchases of guest supplies and items for resale such as food, linens,  
10 gift items, sundries, furniture, china, glassware and utensils for the  
11 facilities located in the Tonto natural bridge state park.

12       ~~X.~~ W. The Arizona state parks board is exempt from this chapter  
13 for the purchase, production, promotion, distribution and sale of  
14 publications, souvenirs and sundry items obtained and produced for resale.

15       ~~Y.~~ X. The Arizona state schools for the deaf and the blind are  
16 exempt from this chapter for the purchase of textbooks and when purchasing  
17 products through a cooperative that is organized and operates in  
18 accordance with state law if such products are not available on a  
19 statewide contract and are related to the operation of the schools or are  
20 products for which special discounts are offered for educational  
21 institutions.

22       ~~Z.~~ Y. Expenditures of monies in the morale, welfare and  
23 recreational fund established by section 26-153 are exempt from this  
24 chapter.

25       ~~AA.~~ Z. Notwithstanding section 41-2534, the director of the state  
26 department of corrections may contract with local medical providers in  
27 counties with a population of less than four hundred thousand persons for  
28 the following purposes:

29           1. To acquire hospital and professional medical services for  
30 inmates who are incarcerated in state department of corrections facilities  
31 that are located in those counties.

32           2. To ensure the availability of emergency medical services to  
33 inmates in all counties by contracting with the closest medical facility  
34 that offers emergency treatment and stabilization.

35       ~~BB.~~ AA. The department of environmental quality is exempt from  
36 this chapter for contracting for procurements relating to the water  
37 quality assurance revolving fund program established pursuant to title 49,  
38 chapter 2, article 5. The department shall engage in a source selection  
39 process that is similar to the procedures prescribed by this chapter. The  
40 department may contract for remedial actions with a single selection  
41 process. The exclusive remedy for disputes or claims relating to  
42 contracting pursuant to this subsection is as prescribed by article 9 of  
43 this chapter and the rules adopted pursuant to that article. All other  
44 procurement by the department shall be as prescribed by this chapter.

1       ~~CC.~~ BB. The motor vehicle division of the department of  
2 transportation is exempt from this chapter for third-party authorizations  
3 pursuant to title 28, chapter 13, only if all of the following conditions  
4 exist:

5       1. The division does not pay any public monies to an authorized  
6 third party.

7       2. Exclusivity is not granted to an authorized third party.

8       3. The director has complied with the requirements prescribed in  
9 title 28, chapter 13 in selecting an authorized third party.

10       ~~DD.~~ CC. This section does not exempt third-party authorizations  
11 pursuant to title 28, chapter 13 from any other applicable law.

12       ~~EE.~~ DD. The state forester is exempt from this chapter for  
13 purchases and contracts relating to wildland fire suppression and  
14 pre-positioning equipment resources and for other activities related to  
15 combating wildland fires and other unplanned risk activities, including  
16 fire, flood, earthquake, wind and hazardous material responses. All other  
17 procurement by the state forester shall be as prescribed by this chapter.

18       ~~FF.~~ EE. The cotton research and protection council is exempt from  
19 this chapter for procurements.

20       ~~GG.~~ FF. Expenditures of monies in the Arizona agricultural  
21 protection fund established by section 3-3304 are exempt from this  
22 chapter.

23       ~~HH.~~ GG. The Arizona commerce authority is exempt from this  
24 chapter, except article 10 for the purpose of cooperative purchases. The  
25 authority shall adopt policies, procedures and practices, in consultation  
26 with the department of administration, that are similar to and based on  
27 the policies and procedures prescribed by this chapter for the purpose of  
28 increased public confidence, fair and equitable treatment of all persons  
29 engaged in the process and fostering broad competition while accomplishing  
30 flexibility to achieve the authority's statutory requirements. The  
31 authority shall make its policies, procedures and practices available to  
32 the public. The authority may exempt specific expenditures from the  
33 policies, procedures and practices.

34       ~~II.~~ HH. The Arizona exposition and state fair board is exempt from  
35 this chapter for contracts for professional entertainment.

36       ~~JJ.~~ II. This chapter does not apply to the purchase of water, gas  
37 or electric utilities.

38       ~~KK.~~ JJ. This chapter does not apply to professional  
39 certifications, professional memberships and conference registrations.

40       ~~LL.~~ KK. The department of gaming is exempt from this chapter for  
41 problem gambling treatment services contracts with licensed behavioral  
42 health professionals.

43       ~~MM.~~ LL. This chapter does not apply to contracts for credit  
44 reporting services.

1       ~~NN.~~ MM. This chapter does not apply to contracts entered into by  
2 the department of child safety:

3       1. With a provider of family foster care pursuant to section 8-503.

4       2. With an eligible entity as defined by Public Law 105-285,  
5 section 673(1)(A)(i), as amended, for designated community services block  
6 grant program monies and any other monies given to the eligible entity  
7 that accomplishes the purpose of Public Law 105-285, section 672.

8       ~~OO.~~ NN. This chapter does not apply to contracts entered into by  
9 the department of economic security with a financial institution to serve  
10 as a program manager and depository under section 46-903.