

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 66
HOUSE BILL 2167

AN ACT

AMENDING SECTION 41-1504, ARIZONA REVISED STATUTES; REPEALING SECTION 41-3018.01, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3024.31; RELATING TO THE ARIZONA COMMERCE AUTHORITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 41-1504, Arizona Revised Statutes, is amended to
3 read:
4 41-1504. Powers and duties; e-verify requirement
5 A. The board of directors, on behalf of the authority, may:
6 1. Adopt and use a corporate seal.
7 2. Sue and be sued.
8 3. Enter into contracts as necessary to carry out the purposes and
9 requirements of this chapter, including intergovernmental agreements
10 pursuant to title 11, chapter 7, article 3 and interagency service
11 agreements as provided by section 35-148.
12 4. Lease real property and improvements to real property for the
13 purposes of the authority. Leases by the authority are exempt from
14 chapter 4, article 7 of this title, relating to management of state
15 properties.
16 5. Employ or retain legal counsel and other consultants as
17 necessary to carry out the purposes of the authority.
18 6. Develop and use written policies, procedures and guidelines for
19 the terms and conditions of employing officers and employees of the
20 authority and may include background checks of appropriate personnel.
21 B. The board of directors, on behalf of the authority, shall:
22 1. Develop comprehensive long-range strategic economic plans for
23 this state and submit the plans to the governor.
24 2. Annually update a strategic economic plan for submission to the
25 governor.
26 3. Accept gifts, grants and loans and enter into contracts and
27 other transactions with any federal or state agency, municipality, private
28 organization or other source.
29 C. The authority shall:
30 1. Assess and collect fees for processing applications and
31 administering incentives. The board shall adopt the manner of computing
32 the amount of each fee to be assessed. Within thirty days after proposing
33 fees for adoption, the chief executive officer shall submit a schedule of
34 the fees for review by the joint legislative budget committee. It is the
35 intent of the legislature that a fee shall not exceed one percent of the
36 amount of the incentive.
37 2. Determine and collect registry fees for the administration of
38 the allocation of federal tax exempt industrial development bonds and
39 student loan bonds authorized by the authority. Such monies collected by
40 the authority shall be deposited, pursuant to sections 35-146 and 35-147,
41 in an authority bond fund. Monies in the fund shall be used, subject to
42 annual appropriation by the legislature, by the authority to administer
43 the allocations provided in this paragraph and are exempt from the
44 provisions of section 35-190 relating to the lapsing of appropriations.

1 3. Determine and collect security deposits for the allocation, for
2 the extension of allocations and for the difference between allocations
3 and principal amounts of federal tax exempt industrial development bonds
4 and student loan bonds authorized by the authority. Security deposits
5 forfeited to the authority shall be deposited in the state general fund.

6 4. At the direction of the board, establish and supervise the
7 operations of full-time or part-time offices in other states and foreign
8 countries for the purpose of expanding direct investment and export trade
9 opportunities for businesses and industries in this state if, based on
10 objective research, the authority determines that the effort would be
11 beneficial to the economy of this state.

12 5. Establish a program by which entrepreneurs become aware of
13 permits, licenses or other authorizations needed to establish, expand or
14 operate in this state.

15 6. Post on its website on an annual basis a report containing at
16 least the following information:

17 (a) The cumulative progress made towards its goals for job creation,
18 capital investment and higher average wages.

19 (b) To the extent not prohibited by law, information on each
20 incentive application approved by the authority in the fiscal year,
21 including the amount of the incentive approved or awarded and the
22 applicant's activity that is projected or has been achieved, whichever is
23 applicable, to qualify for the incentive.

24 (c) RURAL ECONOMIC DEVELOPMENT OUTREACH AND IMPACT DATA.

25 (d) SMALL BUSINESS OUTREACH AND IMPACT DATA.

26 7. Develop and implement written policies and procedures relating
27 to the administration of grants from the Arizona competes fund established
28 by section 41-1545.01, including the following elements:

29 (a) Procedures for documenting grantee selection and due diligence.

30 (b) Procedures for verification of information submitted by
31 grantees.

32 (c) Procedures for evaluating requests to amend grant terms and for
33 documenting decisions relating to those requests.

34 8. Notwithstanding any other law, on request of the office of
35 economic opportunity, disclose to the office of economic opportunity
36 applicant information for incentives administered, in whole or in part, by
37 the authority. Any confidentiality requirements provided by law
38 applicable to the information disclosed pursuant to this paragraph apply
39 to the office of economic opportunity.

40 D. The authority, through the chief executive officer, may:

41 1. Contract and incur obligations reasonably necessary or desirable
42 within the general scope of the authority's activities and operations to
43 enable the authority to adequately perform its duties.

1 2. Use monies, facilities or services to provide matching
2 contributions under federal or other programs that further the objectives
3 and programs of the authority.

4 3. Accept gifts, grants, matching monies or direct payments from
5 public or private agencies or private persons and enterprises for the
6 conduct of programs that are consistent with the general purposes and
7 objectives of this chapter.

8 4. Assess business fees for promotional services provided to
9 businesses that export products and services from this state. The fees
10 shall not exceed the actual costs of the services provided.

11 5. Establish and maintain one or more accounts in banks or other
12 depositories, for public or private monies of the authority, from which
13 operational activities, including payroll, vendor and grant payments, may
14 be conducted. Individual funds that are established by law under the
15 jurisdiction of the authority may be maintained in separate accounts in
16 banks or other depositories, but shall not be commingled with any other
17 monies or funds of the authority.

18 E. The chief executive officer shall:

19 1. Hire employees and prescribe the terms and conditions of their
20 employment as necessary to carry out the purposes of the authority. The
21 board of directors shall adopt written policies, procedures and
22 guidelines, similar to those adopted by the department of administration,
23 regarding officer and employee compensation, observed holidays, leave and
24 reimbursement of travel expenses and health and accident insurance. The
25 officers and employees of the authority are exempt from any laws
26 regulating state employment, including:

27 (a) Chapter 4, articles 5 and 6 of this title, relating to state
28 service.

29 (b) Title 38, chapter 4, article 1 and chapter 5, article 2,
30 relating to state personnel compensation, leave and retirement.

31 (c) Title 38, chapter 4, article 2, relating to reimbursement of
32 state employee expenses.

33 (d) Title 38, chapter 4, article 4, relating to health and accident
34 insurance.

35 2. MAINTAIN THREE FULL-TIME EMPLOYEES TO SERVE AS ADVOCATES FOR
36 SMALL AND RURAL BUSINESSES ON ECONOMIC DEVELOPMENT AND REGULATORY MATTERS
37 BEFORE A CITY, TOWN, COUNTY OR STATE AGENCY. TWO FULL-TIME EMPLOYEES
38 SHALL BE DEDICATED TO SMALL BUSINESS GROWTH, SUPPORT AND REGULATION, ONE
39 OF WHICH SHALL SERVE AS A SMALL BUSINESS OMBUDSMAN. ONE FULL-TIME EMPLOYEE
40 SHALL BE DEDICATED TO RURAL ECONOMIC DEVELOPMENT.

41 ~~2.~~ 3. On a quarterly basis, provide public record data in a manner
42 prescribed by the department of administration related to the authority's
43 revenues and expenditures for inclusion in the comprehensive database of
44 receipts and expenditures of state monies pursuant to section 41-725.

1 F. In addition to any other requirement, in order to qualify for
2 any grant, loan, reimbursement, tax incentive or other economic
3 development incentive pursuant to this chapter, an applicant that is an
4 employer must register with and participate in the e-verify program in
5 compliance with section 23-214. The authority shall require verification
6 of compliance with this subsection as part of any application process.

7 G. Notwithstanding any other law, the authority is subject to
8 chapter 3.1, article 1 of this title, relating to risk management.

9 H. The authority is exempt from title 18, chapter 1, articles 1 and
10 2, relating to statewide information technology. The authority shall
11 adopt policies, procedures and guidelines regarding information
12 technology.

13 I. The authority is exempt from state general accounting and
14 finance practices and rules adopted pursuant to chapter 4, article 3 of
15 this title, but the board shall adopt written accounting practices,
16 systems and procedures for the economic and efficient operation of the
17 authority.

18 J. The authority is exempt from section 41-712, relating to the
19 installation and maintenance of telecommunication systems.

20 K. The authority may lease or purchase motor vehicles for use by
21 employees to conduct business activities. The authority is exempt from
22 section 41-803, relating to the state motor vehicle fleet, and title 38,
23 chapter 3, article 10, relating to vehicle usage and markings.

24 L. Any tangible or intangible record submitted to or compiled by
25 the board or the authority in connection with its work, including the
26 award of monies, is subject to title 39, chapter 1, unless an applicant
27 shows, or the board or authority determines, that specific information
28 meets either of the following:

29 1. If made public, the information would divulge the applicant's or
30 potential applicant's trade secrets, as defined in section 44-401.

31 2. If made public, the information could potentially harm the
32 applicant's, the potential applicant's or this state's competitive
33 position relating to potential business development opportunities and
34 strategies.

35 M. The authority is exempt from chapter 25, article 1 of this
36 title, relating to government competition with private enterprise.

37 Sec. 2. Repeal

38 Section 41-3018.01, Arizona Revised Statutes, is repealed.

39 Sec. 3. Title 41, chapter 27, article 2, Arizona Revised Statutes,
40 is amended by adding section 41-3024.31, to read:

41 41-3024.31. Arizona commerce authority; termination July 1,
42 2024

43 A. THE ARIZONA COMMERCE AUTHORITY TERMINATES ON JULY 1, 2024.

44 B. TITLE 41, CHAPTER 10 AND THIS SECTION ARE REPEALED ON JANUARY 1,
45 2025.

1 Sec. 4. Purpose

2 Pursuant to section 41-2955, subsection B, Arizona Revised Statutes,
3 the legislature continues the Arizona commerce authority to facilitate the
4 beneficial economic growth and development of this state and to promote
5 prosperity through the development and protection of the legitimate
6 interests of Arizona business, industry and commerce within and outside
7 this state.

8 Sec. 5. Retroactivity

9 Sections 2 and 3 of this act are effective retroactively to July 1,
10 2018.

APPROVED BY THE GOVERNOR MARCH 23, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 23, 2018.