

REFERENCE TITLE: state law; local violations; repeal.

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2193

Introduced by
Representatives Powers Hannley: Andrade, Blackwater-Nygren, Butler, Cano,
Dalessandro, DeGrazia, Fernandez B, Liguori, Mathis, Quiñonez, Schwiebert

AN ACT

REPEALING SECTION 41-194.01, ARIZONA REVISED STATUTES; AMENDING SECTIONS
42-5029 AND 43-206, ARIZONA REVISED STATUTES; RELATING TO STATE SHARED
REVENUES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

3 Section 41-194.01, Arizona Revised Statutes, is repealed.

4 Sec. 2. Section 42-5029, Arizona Revised Statutes, is amended to
5 read:

6 42-5029. Remission and distribution of monies; withholding;
7 definition

8 A. The department shall deposit, pursuant to sections 35-146 and
9 35-147, all revenues collected under this article and articles 4, 5 and 8
10 of this chapter pursuant to section 42-1116, separately accounting for:

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

12 2. Revenues collected pursuant to section 42-5070.

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

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

18 5. Revenues collected pursuant to section 42-5010.01 and section
19 42-5155, subsection E.

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

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

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

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

40 2. Pay 38.08 percent to the counties in this state by averaging the
41 following proportions:

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

1 (b) The proportion that the distribution base monies collected
2 during the calendar month in each county under this article, section
3 42-5164, subsection B and section 42-5205, subsection B bear to the total
4 distribution base monies collected under this article, section 42-5164,
5 subsection B and section 42-5205, subsection B throughout the state for
6 the calendar month.

7 3. Pay an additional 2.43 percent to the counties in this state as
8 follows:

9 (a) Average the following proportions:

10 (i) The proportion that the assessed valuation used to determine
11 secondary property taxes of each county, after deducting that part of the
12 assessed valuation that is exempt from taxation at the beginning of the
13 month for which the amount is to be paid, bears to the total assessed
14 valuations used to determine secondary property taxes of all the counties
15 after deducting that portion of the assessed valuations that is exempt
16 from taxation at the beginning of the month for which the amount is to be
17 paid. Property of a city or town that is not within or contiguous to the
18 municipal corporate boundaries and from which water is or may be withdrawn
19 or diverted and transported for use on other property is considered to be
20 taxable property in the county for purposes of determining assessed
21 valuation in the county under this item.

22 (ii) The proportion that the distribution base monies collected
23 during the calendar month in each county under this article, section
24 42-5164, subsection B and section 42-5205, subsection B bear to the total
25 distribution base monies collected under this article, section 42-5164,
26 subsection B and section 42-5205, subsection B throughout ~~the~~ THIS state
27 for the calendar month.

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

39 4. After any distributions required by sections 42-5030,
40 42-5030.01, 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making
41 any transfer to the water quality assurance revolving fund as required by
42 section 49-282, subsection B, credit the remainder of the monies
43 designated as distribution base to the state general fund. From this
44 amount the legislature shall annually appropriate to:

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

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

5 (c) The firearms safety and ranges fund established by section
6 17-273, ~~fifty thousand dollars~~ \$50,000 derived from the taxes collected
7 from the retail classification pursuant to section 42-5061 for the current
8 fiscal year.

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

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

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

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

38 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of
39 this subsection, one-twelfth of the amount a community college that is
40 owned, operated or chartered by a qualifying Indian tribe on its own
41 Indian reservation would receive pursuant to section 15-1472, subsection
42 D, paragraph 2 if it were a community college district shall be
43 distributed each month to the treasurer or other designated depository of
44 a qualifying Indian tribe. Monies distributed pursuant to this paragraph
45 are for the exclusive purpose of providing support to one or more

1 community colleges owned, operated or chartered by a qualifying Indian
2 tribe and shall be used in a manner consistent with section 15-1472,
3 subsection B. For the purposes of this paragraph, "qualifying Indian
4 tribe" has the same meaning as defined in section 42-5031.01,
5 subsection D.

6 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of
7 this subsection, one-twelfth of the following amounts shall be transferred
8 each month to the department of education for the increased cost of basic
9 state aid under section 15-971 due to added school days and associated
10 teacher salary increases enacted in 2000:

- 11 (a) In fiscal year 2001-2002, \$15,305,900.
- 12 (b) In fiscal year 2002-2003, \$31,530,100.
- 13 (c) In fiscal year 2003-2004, \$48,727,700.
- 14 (d) In fiscal year 2004-2005, \$66,957,200.
- 15 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
16 \$86,280,500.

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

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

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

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

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

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

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

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

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

8 G. Notwithstanding subsection D of this section, if a court of
9 competent jurisdiction finally determines that tax monies distributed
10 under this section were illegally collected under this article or articles
11 5 and 8 of this chapter and orders the monies to be refunded to the
12 taxpayer, the department shall compute the amount of such monies that was
13 distributed to each city, town and county under this section. Each
14 city's, town's and county's proportionate share of the costs shall be
15 based on the amount of the original tax payment each municipality and
16 county received. Each month the state treasurer shall reduce the amount
17 otherwise distributable to the city, town and county under this section by
18 ~~one thirty-sixth~~ 1/36 of the total amount to be recovered from the city,
19 town or county until the total amount has been recovered, but the monthly
20 reduction for any city, town or county shall not exceed ten percent of the
21 full monthly distribution to that entity. The reduction shall begin for
22 the first calendar month after the final disposition of the case and shall
23 continue until the total amount, including interest and costs, has been
24 recovered.

25 H. On receiving a certificate of default from the greater Arizona
26 development authority pursuant to section 41-2257 or 41-2258 and to the
27 extent not otherwise expressly prohibited by law, the state treasurer
28 shall withhold from the next succeeding distribution of monies pursuant to
29 this section due to the defaulting political subdivision the amount
30 specified in the certificate of default and immediately deposit the amount
31 withheld in the greater Arizona development authority revolving fund. The
32 state treasurer shall continue to withhold and deposit the monies until
33 the greater Arizona development authority certifies to the state treasurer
34 that the default has been cured. ~~In no event may~~ The state treasurer **MAY**
35 **NOT** withhold any amount that the defaulting political subdivision
36 certifies to the state treasurer and the authority as being necessary to
37 make any required deposits then due for the payment of principal and
38 interest on bonds of the political subdivision that were issued before the
39 date of the loan repayment agreement or bonds and that have been secured
40 by a pledge of distributions made pursuant to this section.

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

1 J. Except as otherwise provided by this subsection, on notice from
 2 the department of revenue pursuant to section 42-6010, subsection B, the
 3 state treasurer shall withhold from the distribution of monies pursuant to
 4 this section to the affected city or town the amount of the penalty for
 5 business location municipal tax incentives provided by the city or town to
 6 a business entity that locates a retail business facility in the city or
 7 town. The state treasurer shall continue to withhold monies pursuant to
 8 this subsection until the entire amount of the penalty has been withheld.
 9 The state treasurer shall credit any monies withheld pursuant to this
 10 subsection to the state general fund as provided by subsection D,
 11 paragraph 4 of this section. The state treasurer shall not withhold any
 12 amount that the city or town certifies to the department of revenue and
 13 the state treasurer as being necessary to make any required deposits or
 14 payments for debt service on bonds or other long-term obligations of the
 15 city or town that were issued or incurred before the location incentives
 16 provided by the city or town.

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

25 ~~L. Except as otherwise provided by this subsection, on notice from~~
 26 ~~the attorney general pursuant to section 41-194.01, subsection B,~~
 27 ~~paragraph 1 that an ordinance, regulation, order or other official action~~
 28 ~~adopted or taken by the governing body of a county, city or town violates~~
 29 ~~state law or the Constitution of Arizona, the state treasurer shall~~
 30 ~~withhold the distribution of monies pursuant to this section to the~~
 31 ~~affected county, city or town and shall continue to withhold monies~~
 32 ~~pursuant to this subsection until the attorney general certifies to the~~
 33 ~~state treasurer that the violation has been resolved. The state treasurer~~
 34 ~~shall redistribute the monies withheld pursuant to this subsection among~~
 35 ~~all other counties, cities and towns in proportion to their population as~~
 36 ~~provided by subsection D of this section. The state treasurer shall not~~
 37 ~~withhold any amount that the county, city or town certifies to the~~
 38 ~~attorney general and the state treasurer as being necessary to make any~~
 39 ~~required deposits or payments for debt service on bonds or other long-term~~
 40 ~~obligations of the county, city or town that were issued or incurred~~
 41 ~~before committing the violation.~~

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

1 this state and, unless otherwise specified, includes a community college
2 tuition financing district established pursuant to section 15-1409.

3 Sec. 3. Section 43-206, Arizona Revised Statutes, is amended to
4 read:

5 43-206. Urban revenue sharing fund; allocation; distribution;
6 withholding

7 A. The urban revenue sharing fund is established. Through fiscal
8 year 2022-2023, the fund consists of an amount equal to fifteen percent of
9 the net proceeds of the state income taxes for the fiscal year two years
10 preceding the current fiscal year. Beginning in fiscal year 2023-2024,
11 the fund consists of an amount equal to eighteen percent of the net
12 proceeds of the state income taxes for the fiscal year two years preceding
13 the current fiscal year. The fund shall be distributed to incorporated
14 cities and towns as provided in this section, except that a city or town
15 shall receive at least an amount equal to what a city or town with a
16 population of fifteen hundred or more persons would receive. The transfer
17 of net proceeds prescribed by section 49-282, subsection B does not affect
18 the calculation of net proceeds prescribed by this subsection.

19 B. Each city or town shall share in the urban revenue sharing fund
20 in the proportion that the population of each bears to the population of
21 all. Except as provided by sections 42-5033 and 42-5033.01, the population
22 of a city or town as determined by the most recent United States decennial
23 census plus any revisions to the decennial census certified by the United
24 States CENSUS bureau ~~of the census~~ shall be used as the basis for
25 apportioning monies pursuant to this subsection.

26 C. The treasurer, on instruction from the department, shall
27 transmit, not later than the tenth day of each month, to each city or town
28 an amount equal to one-twelfth of that city's or town's total entitlement
29 for the current fiscal year from the urban revenue sharing fund as
30 determined by the department.

31 D. A newly incorporated city or town shall share in the urban
32 revenue sharing fund beginning the first month of the first full fiscal
33 year following incorporation.

34 E. On receipt of a certificate of default from the greater Arizona
35 development authority pursuant to section 41-2257 or 41-2258, the state
36 treasurer, to the extent not otherwise expressly prohibited by law, shall
37 withhold from the next succeeding distribution of monies pursuant to this
38 section due to the city or town the amount specified in the certificate of
39 default and immediately deposit the amount withheld in the greater Arizona
40 development authority revolving fund. The state treasurer shall continue
41 to withhold and deposit the monies until the authority certifies to the
42 state treasurer that the default has been cured. The state treasurer may
43 not withhold any amount that is necessary, as certified by the defaulting
44 political subdivision to the state treasurer and the authority, to make
45 any required deposits then due for the payment of principal and interest

1 on bonds of the political subdivision that were issued before the date of
2 the loan repayment agreement or bonds and that have been secured by a
3 pledge of distributions made pursuant to this section.

4 ~~F. Except as otherwise provided by this subsection, on notice from~~
5 ~~the attorney general pursuant to section 41-194.01, subsection B,~~
6 ~~paragraph 1 that an ordinance, regulation, order or other official action~~
7 ~~adopted or taken by the governing body of a city or town violates state~~
8 ~~law or the Constitution of Arizona, the state treasurer shall withhold the~~
9 ~~distribution of monies pursuant to this section to the affected city or~~
10 ~~town and shall continue to withhold monies pursuant to this subsection~~
11 ~~until the attorney general certifies to the state treasurer that the~~
12 ~~violation has been resolved. The state treasurer shall redistribute the~~
13 ~~monies withheld pursuant to this subsection among all other cities and~~
14 ~~towns in proportion to their population as provided by subsection B of~~
15 ~~this section. The state treasurer shall not withhold any amount that the~~
16 ~~city or town certifies to the attorney general and the state treasurer as~~
17 ~~being necessary to make any required deposits or payments for debt service~~
18 ~~on bonds or other long-term obligations of the city or town that were~~
19 ~~issued or incurred before committing the violation.~~