

House Engrossed

public infrastructure improvements; reimbursement

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HOUSE BILL 2809

AN ACT

AMENDING SECTION 42-5032.02, ARIZONA REVISED STATUTES; RELATING TO PUBLIC
INFRASTRUCTURE IMPROVEMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5032.02, Arizona Revised Statutes, is amended
3 to read:

4 42-5032.02. Distribution of revenues for city, town or county
5 infrastructure improvements related to
6 manufacturing facilities; definitions

7 A. Subject to subsection B of this section, from and after
8 September 30, 2013 through September 30, 2033, ~~each month~~ the state
9 treasurer shall pay **IN MONTHLY INCREMENTS** a city, town or county **UP TO** the
10 amount determined under subsection C of this section for ~~the purpose of~~
11 ~~funding up to eighty percent of the cost of~~ public infrastructure
12 improvements for the benefit of a manufacturing facility.

13 B. The state treasurer shall not make any payments under subsection
14 C of this section until both of the following apply:

15 1. Ten percent of the qualifying capital investment that is
16 certified under subsection D of this section and that constitutes
17 construction phase services, as defined in section 42-5075, has been made
18 by the manufacturing facility.

19 2. From and after June 30, 2014.

20 C. The **TOTAL** amount ~~to be~~ paid to a city, town or county under
21 subsection A of this section ~~is~~ **SHALL NOT EXCEED** the total amount of state
22 transaction privilege tax revenues collected under section 42-5010,
23 subsection A from persons conducting business under section 42-5075
24 derived from contracts to construct buildings and associated improvements
25 for the benefit of a manufacturing facility **OR EIGHTY PERCENT OF THE TOTAL**
26 **COST OF THE PUBLIC INFRASTRUCTURE IMPROVEMENTS, WHICHEVER IS LESS.** ~~The~~
27 ~~total amount paid to all cities, towns and counties under this subsection~~
28 ~~shall not exceed a maximum of \$100,000,000.~~

29 D. Within one hundred eighty days after the commencement of the
30 construction of buildings and associated improvements for the benefit of a
31 manufacturing facility that will require a city, town or county to make
32 infrastructure improvements, the manufacturing facility shall file a sworn
33 certification with the Arizona commerce authority and submit a copy of
34 this sworn certification to the applicable city, town or county that the
35 manufacturing facility agrees to either:

36 1. Make at least \$500,000,000 in capital investment if the
37 manufacturing facility is located in a county that has a population of
38 eight hundred thousand persons or more.

39 2. Make at least \$50,000,000 in capital investment if the
40 manufacturing facility is located in a county that has a population of
41 less than eight hundred thousand persons.

42 E. The certification under subsection D of this section shall
43 contain a sworn statement or certification, signed by an officer of the
44 manufacturing facility under penalty of perjury, that the information
45 contained is true and correct according to the best belief and knowledge

1 of the person submitting the information after a reasonable investigation
2 of the facts.

3 F. Before submitting the certification to the Arizona commerce
4 authority, the manufacturing facility and the city, town or county must
5 enter into a written agreement that:

6 1. Identifies and states the cost of the public infrastructure
7 improvements that will be constructed.

8 2. Identifies the sources of monies, including monies received
9 pursuant to this section, that will be used to pay for the public
10 infrastructure improvements.

11 G. On receipt of the sworn certification from a manufacturing
12 facility pursuant to subsection D of this section, the city, town or
13 county shall enter into a written agreement with the department. This
14 agreement and any amendments or changes to the agreement shall:

15 1. State the cost of the public infrastructure improvements and
16 separately identify the particular improvements that will be made.

17 2. State that the monies received under this section will be used
18 exclusively to pay for public infrastructure improvements that are
19 necessary to support the activities of the manufacturing facility.

20 3. State that the city, town or county will commit all of its
21 portion of the revenue received pursuant to section 42-5029, subsection D
22 derived from contracts subject to section 42-5075 to construct buildings
23 and associated improvements for the benefit of the manufacturing facility
24 for public infrastructure improvements that benefit the manufacturing
25 facility.

26 4. State that the city, town or county will immediately notify the
27 department when monies received under this section exceed eighty percent
28 of the cost of the infrastructure improvements and will return the amount
29 of the excess to the state treasurer for deposit in the state general
30 fund.

31 5. Stipulate the actual amount of the construction funding that
32 will be derived from sources other than this state.

33 6. Identify the persons who will be prime contractors on the
34 construction of buildings and associated improvements for the benefit of a
35 manufacturing facility and state that each prime contractor has been
36 notified as to which portion of the contractor's income shall be
37 separately identified to the department pursuant to section 42-5075,
38 subsection H.

39 7. State that the city, town or county agrees that any amounts paid
40 by the department to a prime contractor as identified under paragraph 6 of
41 this subsection resulting from an audit adjustment or claim for credit or
42 refund of taxes described in subsection C of this section shall be
43 recovered by the department from the city, town or county by reducing the
44 amount paid to the city, town or county under section 42-5029 from monies

1 designated as distribution base in the month next succeeding the month in
2 which the adjustment or claim is paid.

3 8. State that the city, town or county agrees that the department
4 will use the amounts subject to any distribution required under subsection
5 A of this section in calculating the maximum amount set by subsection C of
6 this section.

7 9. State that the city, town or county agrees that if, on
8 notification by the department, the state treasurer ceases payments
9 because of the condition described in subsection H of this section, the
10 city, town or county has no claim to additional payments if the department
11 subsequently pays amounts to a prime contractor identified in an agreement
12 with any city, town or county, as described in paragraph 6 of this
13 subsection, due to an audit adjustment or claim for credit or refund of
14 taxes described in subsection C of this section.

15 10. Provide any other information deemed necessary by the
16 department.

17 H. On notification by the department, the state treasurer shall
18 cease payments under subsection A of this section if either of the
19 following occurs:

20 1. The city, town or county has received monies that meet or exceed
21 eighty percent of the cost of the public infrastructure improvements that
22 are necessary to support the activities related to the manufacturing
23 facility as described in the written agreement pursuant to subsection G of
24 this section.

25 2. The total amount subject to any distribution required under
26 subsection A of this section has met the maximum amount set by subsection
27 C of this section.

28 I. For the purposes of this section:

29 1. "Associated improvement" includes any public infrastructure
30 improvement that is made for the benefit of the manufacturing facility
31 outside of the parcel or parcels of real property where the manufacturing
32 facility is located.

33 2. "Capital investment" means an expenditure to acquire, lease or
34 improve property that is used for the benefit of a manufacturing facility,
35 including land, buildings, machinery and fixtures.

36 3. "Manufacturing facility":

37 (a) Means an establishment that is engaged in the mechanical,
38 physical or chemical transformation or fabrication of materials,
39 substances or components into new products in this state, that is
40 classified within sections 31 through 33 inclusive of the 2007 edition of
41 the North American industry classification system as published by the
42 national technical information service of the United States department of
43 commerce and that agrees to either:

1 (i) Make at least \$500,000,000 in capital investment if the
2 manufacturing facility is located in a county that has a population of
3 eight hundred thousand persons or more.

4 (ii) Make at least \$50,000,000 in capital investment if the
5 manufacturing facility is located in a county that has a population of
6 less than eight hundred thousand persons.

7 (b) Does not include mining, milling or smelting mineral ore or
8 generating electricity.

9 4. "Population" means the population determined in the most recent
10 United States decennial census or the most recent special census as
11 provided in section 28-6532.

12 5. "Public infrastructure" means water production, delivery and
13 disposal facilities, wastewater production, delivery and disposal
14 facilities and roads that are necessary to support the activities of the
15 manufacturing facility.