

REFERENCE TITLE: public infrastructure improvements; reimbursement

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

## **HB 2809**

Introduced by  
Representatives Carbone: Austin, Biasiucci, Blattman, Cook, Dunn, Gress,  
Gutierrez, Martinez, Pawlik, Terech, Wilmeth, Senators Kaiser, Mesnard

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.