

REFERENCE TITLE: settlement agreements; report; approval

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2275

Introduced by
Representatives Marshall: Cook, Dunn, Gress, Hendrix, Peña

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.50; AMENDING TITLE 11, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-269.29; AMENDING SECTION 41-192, ARIZONA REVISED STATUTES; RELATING TO SETTLEMENT AGREEMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes,
3 is amended by adding section 9-500.50, to read:

4 9-500.50. Settlement agreements; report; approval;
5 declaration of statewide concern; definitions

6 A. AT LEAST NINETY DAYS BEFORE ENTERING INTO A SETTLEMENT AGREEMENT
7 THAT WOULD COST A CITY OR TOWN \$500,000 OR MORE TO IMPLEMENT, THE CITY OR
8 TOWN SHALL SUBMIT A SETTLEMENT AGREEMENT REPORT TO THE PRESIDENT OF THE
9 SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE ATTORNEY
10 GENERAL DESCRIBING THE PROPOSED TERMS OF THE SETTLEMENT AGREEMENT.

11 B. IF A PROPOSED SETTLEMENT AGREEMENT WOULD COST A CITY OR TOWN
12 \$1,000,000 OR MORE TO IMPLEMENT, THE CITY OR TOWN SHALL SUBMIT THE
13 PROPOSED SETTLEMENT AGREEMENT TO THE GOVERNOR FOR APPROVAL BEFORE THE
14 SETTLEMENT AGREEMENT IS CONSIDERED LEGALLY BINDING. IF THE PROPOSED
15 SETTLEMENT AGREEMENT IS APPROVED BY THE GOVERNOR, THE CITY OR TOWN SHALL
16 SUBMIT THE SETTLEMENT AGREEMENT TO THE JOINT LEGISLATIVE AUDIT COMMITTEE,
17 WHICH SHALL REVIEW THE APPROVED SETTLEMENT AGREEMENT AND MAY RECOMMEND
18 THAT THE CITY OR TOWN DO EITHER OF THE FOLLOWING:

19 1. FINALIZE THE SETTLEMENT AGREEMENT.

20 2. AMEND THE SETTLEMENT AGREEMENT. IF THE SETTLEMENT AGREEMENT IS
21 AMENDED, THE CITY OR TOWN SHALL RESUBMIT THE SETTLEMENT AGREEMENT TO THE
22 GOVERNOR FOR APPROVAL.

23 C. IF A CITY OR TOWN DOES NOT SUBMIT OR RESUBMIT A PROPOSED
24 SETTLEMENT AGREEMENT TO THE GOVERNOR FOR FINAL APPROVAL PURSUANT TO
25 SUBSECTION B OF THIS SECTION AND THE PROPOSED SETTLEMENT AGREEMENT IS
26 FINALIZED, THE SETTLEMENT AGREEMENT IS NOT LEGALLY BINDING.

27 D. ON INITIATION OF ANY SETTLEMENT AGREEMENT NEGOTIATIONS BY A CITY
28 OR TOWN PURSUANT TO SUBSECTION B OF THIS SECTION, THE CITY OR TOWN SHALL
29 NOTIFY THE GENERAL COUNSEL OF THE SENATE AND THE HOUSE OF REPRESENTATIVES
30 THAT NEGOTIATIONS HAVE COMMENCED AND UPDATE EACH GENERAL COUNSEL OF ANY
31 DEVELOPMENTS IN THE NEGOTIATION PROCESS. THE GENERAL COUNSELS OF THE
32 SENATE AND THE HOUSE OF REPRESENTATIVES MAY ATTEND ANY SETTLEMENT
33 AGREEMENT NEGOTIATION MEETINGS.

34 E. DUE TO THE IMPACT ON PUBLIC FINANCES, INCLUDING STATE FINANCES,
35 LEGALLY BINDING CONTRACTS ENTERED INTO BY A CITY OR TOWN ARE A MATTER OF
36 STATEWIDE CONCERN.

37 F. FOR THE PURPOSES OF THIS SECTION:

38 1. "SETTLEMENT AGREEMENT":

39 (a) MEANS A CONSENT DECREE, AN AGREEMENT OR ANY OTHER LEGALLY
40 BINDING DOCUMENT OR REPRESENTATION THAT RESOLVES A THREATENED OR PENDING
41 LAWSUIT BETWEEN THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE AND
42 ANOTHER PARTY BY REQUIRING THIS STATE OR A POLITICAL SUBDIVISION OF THIS
43 STATE TO TAKE LEGALLY BINDING ACTION.

44 (b) DOES NOT INCLUDE ANY OF THE FOLLOWING:

1 (i) AGREEMENTS MADE UNDER TITLE 28 TO RESOLVE CONSTRUCTION CONTRACT
2 DISPUTES.

3 (ii) THE SETTLEMENT OF DISPUTES ARISING FROM AUDITS, DEFAULTS OR
4 BREACHES OF PERMITS, CONTRACTS OF SALE, EASEMENTS OR LEASES BY THE STATE
5 LAND DEPARTMENT.

6 (iii) AGREEMENTS MADE BY THE DEPARTMENT OF ADMINISTRATION TO
7 RESOLVE CONSTRUCTION CONTRACT CLAIMS MADE AGAINST THIS STATE BY
8 CONTRACTORS OR SUBCONTRACTORS.

9 2. "SETTLEMENT AGREEMENT REPORT" MEANS A REPORT THAT CONTAINS ALL
10 OF THE FOLLOWING:

11 (a) A COPY OF THE SETTLEMENT AGREEMENT, UNLESS THE AGREEMENT IS NOT
12 ALLOWED TO BE DISCLOSED DUE TO A COURT ORDER OR OTHER LEGAL REQUIREMENT.

13 (b) THE TOTAL AMOUNT OF THE SETTLEMENT AND THE SOURCE OF THE MONIES
14 THE CITY OR TOWN INTENDS TO USE FOR THE PAYMENT OF THE SETTLEMENT.

15 (c) THE PAYER OF THE SETTLEMENT.

16 (d) THE RECIPIENT OF THE PAYMENT.

17 (e) A SUMMARY OF THE CIRCUMSTANCES RELATED TO THE SETTLEMENT.

18 Sec. 2. Title 11, chapter 2, article 4, Arizona Revised Statutes,
19 is amended by adding section 11-269.29, to read:

20 11-269.29. Settlement agreements; report; approval;
21 declaration of statewide concern; definitions

22 A. AT LEAST NINETY DAYS BEFORE ENTERING INTO A SETTLEMENT AGREEMENT
23 THAT WOULD COST A COUNTY \$500,000 OR MORE TO IMPLEMENT, THE COUNTY SHALL
24 SUBMIT A SETTLEMENT AGREEMENT REPORT TO THE PRESIDENT OF THE SENATE, THE
25 SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE ATTORNEY GENERAL
26 DESCRIBING THE PROPOSED TERMS OF THE SETTLEMENT AGREEMENT.

27 B. IF A PROPOSED SETTLEMENT AGREEMENT WOULD COST A COUNTY
28 \$1,000,000 OR MORE TO IMPLEMENT, THE COUNTY SHALL SUBMIT THE PROPOSED
29 SETTLEMENT AGREEMENT TO THE GOVERNOR FOR APPROVAL BEFORE THE SETTLEMENT
30 AGREEMENT IS CONSIDERED LEGALLY BINDING. IF THE PROPOSED SETTLEMENT
31 AGREEMENT IS APPROVED BY THE GOVERNOR, THE COUNTY SHALL SUBMIT THE
32 SETTLEMENT AGREEMENT TO THE JOINT LEGISLATIVE AUDIT COMMITTEE, WHICH SHALL
33 REVIEW THE APPROVED SETTLEMENT AGREEMENT AND MAY RECOMMEND THAT THE COUNTY
34 DO EITHER OF THE FOLLOWING:

35 1. FINALIZE THE SETTLEMENT AGREEMENT.

36 2. AMEND THE SETTLEMENT AGREEMENT. IF THE SETTLEMENT AGREEMENT IS
37 AMENDED, THE COUNTY SHALL RESUBMIT THE SETTLEMENT AGREEMENT TO THE
38 GOVERNOR FOR APPROVAL.

39 C. IF A COUNTY DOES NOT SUBMIT OR RESUBMIT A PROPOSED SETTLEMENT
40 AGREEMENT TO THE GOVERNOR FOR FINAL APPROVAL PURSUANT TO SUBSECTION B OF
41 THIS SECTION AND THE PROPOSED SETTLEMENT AGREEMENT IS FINALIZED, THE
42 SETTLEMENT AGREEMENT IS NOT LEGALLY BINDING.

43 D. ON INITIATION OF ANY SETTLEMENT AGREEMENT NEGOTIATIONS BY A
44 COUNTY PURSUANT TO SUBSECTION B OF THIS SECTION, THE COUNTY SHALL NOTIFY
45 THE GENERAL COUNSEL OF THE SENATE AND THE HOUSE OF REPRESENTATIVES THAT

1 NEGOTIATIONS HAVE COMMENCED AND UPDATE EACH GENERAL COUNSEL OF ANY
2 DEVELOPMENTS IN THE NEGOTIATION PROCESS. THE GENERAL COUNSELS OF THE
3 SENATE AND THE HOUSE OF REPRESENTATIVES MAY ATTEND ANY SETTLEMENT
4 AGREEMENT NEGOTIATION MEETINGS.

5 E. DUE TO THE IMPACT ON PUBLIC FINANCES, INCLUDING STATE FINANCES,
6 LEGALLY BINDING CONTRACTS ENTERED INTO BY A COUNTY ARE A MATTER OF
7 STATEWIDE CONCERN.

8 F. FOR THE PURPOSES OF THIS SECTION:

9 1. "SETTLEMENT AGREEMENT":

10 (a) MEANS A CONSENT DECREE, AN AGREEMENT OR ANY OTHER LEGALLY
11 BINDING DOCUMENT OR REPRESENTATION THAT RESOLVES A THREATENED OR PENDING
12 LAWSUIT BETWEEN THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE AND
13 ANOTHER PARTY BY REQUIRING THIS STATE OR A POLITICAL SUBDIVISION OF THIS
14 STATE TO TAKE LEGALLY BINDING ACTION.

15 (b) DOES NOT INCLUDE ANY OF THE FOLLOWING:

16 (i) AGREEMENTS MADE UNDER TITLE 28 TO RESOLVE CONSTRUCTION CONTRACT
17 DISPUTES.

18 (ii) THE SETTLEMENT OF DISPUTES ARISING FROM AUDITS, DEFAULTS OR
19 BREACHES OF PERMITS, CONTRACTS OF SALE, EASEMENTS OR LEASES BY THE STATE
20 LAND DEPARTMENT.

21 (iii) AGREEMENTS MADE BY THE DEPARTMENT OF ADMINISTRATION TO
22 RESOLVE CONSTRUCTION CONTRACT CLAIMS MADE AGAINST THIS STATE BY
23 CONTRACTORS OR SUBCONTRACTORS.

24 2. "SETTLEMENT AGREEMENT REPORT" MEANS A REPORT THAT CONTAINS ALL
25 OF THE FOLLOWING:

26 (a) A COPY OF THE SETTLEMENT AGREEMENT, UNLESS THE AGREEMENT IS NOT
27 ALLOWED TO BE DISCLOSED DUE TO A COURT ORDER OR OTHER LEGAL REQUIREMENT.

28 (b) THE TOTAL AMOUNT OF THE SETTLEMENT AND THE SOURCE OF THE MONIES
29 THE COUNTY INTENDS TO USE FOR THE PAYMENT OF THE SETTLEMENT.

30 (c) THE PAYER OF THE SETTLEMENT.

31 (d) THE RECIPIENT OF THE PAYMENT.

32 (e) A SUMMARY OF THE CIRCUMSTANCES RELATED TO THE SETTLEMENT.

33 Sec. 3. Section 41-192, Arizona Revised Statutes, is amended to
34 read:

35 41-192. Powers and duties of attorney general; restrictions
36 on state agencies as to legal counsel; exceptions;
37 compromise and settlement monies; definitions

38 A. The attorney general shall have charge of and direct the
39 department of law and shall serve as chief legal officer of the state.
40 The attorney general shall:

41 1. Be the legal advisor of the departments of this state and render
42 such legal services as the departments require.

43 2. Establish administrative and operational policies and procedures
44 within ~~his~~ THE ATTORNEY GENERAL'S department.

1 3. Approve long-range plans for developing departmental programs
2 therein, and coordinate the legal services required by other departments
3 of this state or other state agencies.

4 4. Represent school districts and governing boards of school
5 districts in any lawsuit involving a conflict of interest with other
6 county offices.

7 5. Represent political subdivisions, school districts and
8 municipalities in suits to enforce state or federal statutes pertaining to
9 antitrust, restraint of trade or price-fixing activities or conspiracies,
10 if the attorney general notifies in writing the political subdivisions,
11 school districts and municipalities of the attorney general's intention to
12 bring any such action on their behalf. At any time within thirty days
13 after the notification, a political subdivision, school district or
14 municipality, by formal resolution of its governing body, may withdraw the
15 authority of the attorney general to bring the intended action on its
16 behalf.

17 6. In any action brought by the attorney general pursuant to state
18 or federal statutes pertaining to antitrust, restraint of trade, or
19 price-fixing activities or conspiracies for the recovery of damages by
20 this state or any of its political subdivisions, school districts or
21 municipalities, in addition to the attorney general's other powers and
22 authority, the attorney general on behalf of this state may enter into
23 contracts relating to the investigation and prosecution of such action
24 with any other party plaintiff who has brought a similar action for the
25 recovery of damages and with whom the attorney general finds it
26 advantageous to act jointly or to share common expenses or to cooperate in
27 any manner relative to such action. In any such action, notwithstanding
28 any other laws to the contrary, the attorney general may undertake, among
29 other things, to render legal services as special counsel or to obtain the
30 legal services of special counsel from any department or agency of the
31 United States, of this state or any other state or any department or
32 agency thereof or any county, city, public corporation or public district
33 in this state or in any other state that has brought or intends to bring a
34 similar action for the recovery of damages or its duly authorized legal
35 representatives in such action.

36 7. Organize the civil rights division within the department of law
37 and administer such division pursuant to the powers and duties provided in
38 chapter 9 of this title.

39 8. Compile, publish and distribute to all state agencies,
40 departments, boards, commissions and councils, and to other persons and
41 government entities on request, at least every ten years, the Arizona
42 agency handbook that sets forth and explains the major state laws that
43 govern state agencies, including information on the laws relating to
44 bribery, conflicts of interest, contracting with the government,
45 disclosure of public information, discrimination, nepotism, financial

1 disclosure, gifts and extra compensation, incompatible employment,
2 political activity by employees, public access and misuse of public
3 resources for personal gain. A supplement to the handbook reflecting
4 revisions to the information contained in the handbook shall be compiled
5 and distributed by the attorney general as deemed necessary.

6 B. Except as otherwise provided by law, the attorney general may:

7 1. Organize the department into such bureaus, subdivisions or units
8 as ~~he~~ THE ATTORNEY GENERAL deems most efficient and economical, and
9 consolidate or abolish them.

10 2. Adopt rules for the orderly conduct of the business of the
11 department.

12 3. Subject to chapter 4, article 4 of this title, employ and assign
13 assistant attorneys general and other employees necessary to perform the
14 functions of the department.

15 4. Compromise or settle any action or claim by or against this
16 state or any department, board or agency of this state. If the compromise
17 or settlement involves a particular department, board or agency of this
18 state, the compromise or settlement shall be first approved by the
19 department, board or agency. If no department or agency is named or
20 otherwise materially involved, the approval of the governor shall be first
21 obtained. AT LEAST NINETY DAYS BEFORE ENTERING INTO A SETTLEMENT
22 AGREEMENT, THE ATTORNEY GENERAL SHALL SUBMIT A SETTLEMENT AGREEMENT REPORT
23 TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
24 REPRESENTATIVES DESCRIBING THE PROPOSED TERMS OF THE SETTLEMENT AGREEMENT.

25 5. Charge reasonable fees for distributing official publications,
26 including attorney general legal opinions and the Arizona agency handbook.
27 The fees received shall be transmitted to the state treasurer for deposit
28 in the state general fund.

29 C. The powers and duties of a bureau, subdivision or unit shall be
30 limited to those assigned by law to the department.

31 D. Notwithstanding any law to the contrary, except as provided in
32 subsections E and F of this section, no state agency other than the
33 attorney general shall employ legal counsel or make an expenditure or
34 incur an indebtedness for legal services, but the following are exempt
35 from this section:

- 36 1. The director of water resources.
- 37 2. The residential utility consumer office.
- 38 3. The industrial commission OF ARIZONA.
- 39 4. The Arizona board of regents.
- 40 5. The auditor general.
- 41 6. The corporation commissioners and the corporation commission
42 other than the securities division.
- 43 7. The office of the governor.
- 44 8. The constitutional defense council.
- 45 9. The office of the state treasurer.

1 10. The Arizona commerce authority.

2 11. The water infrastructure finance authority of Arizona.

3 E. If the attorney general determines that ~~he~~ **THE ATTORNEY GENERAL**
4 is disqualified from providing judicial or quasi-judicial legal
5 representation or legal services on behalf of any state agency in relation
6 to any matter, the attorney general shall give written notification to the
7 state agency affected. If the agency has received written notification
8 from the attorney general that the attorney general is disqualified from
9 providing judicial or quasi-judicial legal representation or legal
10 services in relation to any particular matter, the state agency is
11 authorized to make expenditures and incur indebtedness to employ attorneys
12 to provide the representation or services.

13 F. If the attorney general and the director of the department of
14 agriculture cannot agree on the final disposition of a pesticide complaint
15 under section 3-368, if the attorney general and the director determine
16 that a conflict of interest exists as to any matter or if the attorney
17 general and the director determine that the attorney general does not have
18 the expertise or attorneys available to handle a matter, the director is
19 authorized to make expenditures and incur indebtedness to employ attorneys
20 to provide representation or services to the department with regard to
21 that matter.

22 G. Any department or agency of this state authorized by law to
23 maintain a legal division or incur expenses for legal services from funds
24 derived from sources other than the general revenue of the state, or from
25 any special or trust fund, shall pay from such source of revenue or
26 special or trust fund into the general fund of the state, to the extent
27 such funds are available and on a reimbursable basis for warrants drawn,
28 the amount actually expended by the department of law within legislative
29 appropriations for such legal division or legal services.

30 H. Appropriations made pursuant to subsection G of this section
31 shall not be subject to lapsing provisions otherwise provided by law.
32 Services for departments or agencies to which this subsection and
33 subsection F of this section are applicable shall be performed by special
34 or regular assistants to the attorney general.

35 I. Notwithstanding section 35-148, monies received by the attorney
36 general from charges to state agencies and political subdivisions for
37 legal services relating to interagency service agreements shall be
38 deposited, pursuant to sections 35-146 and 35-147, in an attorney general
39 agency services fund. Monies in the fund are subject to legislative
40 appropriation and are exempt from the provisions of section 35-190
41 relating to lapsing of appropriations.

42 J. Unless otherwise provided by law, monies received for and
43 belonging to the state and resulting from compromises and settlements
44 entered into pursuant to subsection B of this section, excluding
45 restitution and reimbursement to state agencies for costs or attorney

1 fees, shall be deposited into the state treasury and credited to the state
2 general fund pursuant to section 35-142. Monies received for and
3 belonging to the state and resulting from a compromise or settlement are
4 not considered custodial, private or quasi-private monies unless
5 specifically provided by law. On or before January 15, April 15, July 15
6 and October 15, the attorney general shall file with the governor, with
7 copies to the director of the department of administration, the president
8 of the senate, the speaker of the house of representatives, the secretary
9 of state and the staff director of the joint legislative budget committee,
10 a full and complete account of the deposits into the state treasury made
11 pursuant to this subsection in the previous calendar quarter. For the
12 purposes of this subsection, "restitution" means monies intended to
13 compensate a specific, identifiable person, including this state, for
14 economic loss.

15 K. FOR THE PURPOSES OF THIS SECTION:

16 1. "SETTLEMENT AGREEMENT":

17 (a) MEANS A CONSENT DECREE, AN AGREEMENT OR ANY OTHER LEGALLY
18 BINDING DOCUMENT OR REPRESENTATION THAT RESOLVES A THREATENED OR PENDING
19 LAWSUIT BETWEEN THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE AND
20 ANOTHER PARTY BY REQUIRING THIS STATE OR A POLITICAL SUBDIVISION OF THIS
21 STATE TO TAKE LEGALLY BINDING ACTION.

22 (b) DOES NOT INCLUDE ANY OF THE FOLLOWING:

23 (i) AGREEMENTS MADE UNDER TITLE 28 TO RESOLVE CONSTRUCTION CONTRACT
24 DISPUTES.

25 (ii) THE SETTLEMENT OF DISPUTES ARISING FROM AUDITS, DEFAULTS OR
26 BREACHES OF PERMITS, CONTRACTS OF SALE, EASEMENTS OR LEASES BY THE STATE
27 LAND DEPARTMENT.

28 (iii) AGREEMENTS MADE BY THE DEPARTMENT OF ADMINISTRATION TO
29 RESOLVE CONSTRUCTION CONTRACT CLAIMS MADE AGAINST THIS STATE BY
30 CONTRACTORS OR SUBCONTRACTORS.

31 2. "SETTLEMENT AGREEMENT REPORT" MEANS A REPORT THAT CONTAINS A
32 COPY OF THE SETTLEMENT AGREEMENT, UNLESS THE AGREEMENT IS NOT ALLOWED TO
33 BE DISCLOSED DUE TO A COURT ORDER OR OTHER LEGAL REQUIREMENT, AND THAT
34 DOES ALL OF THE FOLLOWING:

35 (a) STATES THE TOTAL AMOUNT OF THE SETTLEMENT.

36 (b) STATES THE PAYER OF THE SETTLEMENT.

37 (c) STATES THE RECIPIENT OF THE PAYMENT.

38 (d) SUMMARIZES THE CIRCUMSTANCES RELATED TO THE SETTLEMENT.