

House Engrossed Senate Bill
public-private partnership contracts

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SENATE BILL 1670

AN ACT

AMENDING SECTION 41-2559, ARIZONA REVISED STATUTES; RELATING TO
PUBLIC-PRIVATE PARTNERSHIP CONTRACTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-2559, Arizona Revised Statutes, is amended to
3 read:

4 41-2559. Public-private partnership contracts

5 A. The director may enter into public-private partnership contracts
6 to finance the technology needs of the purchasing agency. The funding for
7 services under a public-private partnership contract entered into pursuant
8 to this section shall be contingent on and computed according to
9 established performance standards and shall be attributable to the
10 successful implementation of the technology program for the period
11 specified in the contract. The director may issue requests for
12 information and requests for proposals to solicit private partners that
13 are interested in providing programs under a contract entered into
14 pursuant to this section.

15 B. Each request for proposals issued pursuant to this section shall
16 require each private partner to propose specific performance improvements
17 and measurement approaches to be used to measure the value delivered by
18 the vendor technology solution. The director shall include an assessment
19 of the proposed value of the vendor technology solution in its evaluation
20 criteria to select the best value solution for the purchasing agency.

21 C. A contract entered into between the director and an automated
22 systems vendor OR AN INFORMATION TECHNOLOGY VENDOR shall provide for
23 payment of fees on a contractually specific amount based on the
24 achievement of measured performance improvements that are mutually agreed
25 to by the contractor and the director and monies for payment of these fees
26 are not subject to legislative appropriation. The following are subject
27 to review and approval by the director:

28 1. The terms of contracts entered into pursuant to this section
29 relating to the measurement of the performance improvement attributable to
30 the vendor technology program.

31 2. Payment of fees based on the achievement of the established
32 performance measures.

33 D. ON LEGISLATIVE AUTHORIZATION, THE DIRECTOR OF THE DEPARTMENT OF
34 ADMINISTRATION AND THE DIRECTOR OF THE DEPARTMENT OF EMERGENCY AND
35 MILITARY AFFAIRS MAY ISSUE A REQUEST FOR PROPOSALS AND ENTER INTO A
36 PUBLIC-PRIVATE PARTNERSHIP CONTRACT FOR MILITARY ROTARY WING AVIATION
37 FLIGHT AND MAINTENANCE TRAINING AND SERVICES.

38 ~~D.~~ E. Before a public-private partnership contract is awarded
39 pursuant to this section, the joint legislative budget committee staff
40 shall be consulted with regard to the potential fiscal impact of the
41 contract to the state. If the joint legislative budget committee staff
42 finds a significant negative fiscal impact to the state, the staff shall
43 report its findings to the joint legislative budget committee.

1 Sec. 2. Public-private partnerships; department of emergency
2 and military affairs; department of administration;
3 private sector entities; proposals; delayed repeal

4 A. Notwithstanding any other law, the department of emergency and
5 military affairs and the department of administration may jointly
6 establish public-private partnerships for military rotary wing aviation
7 flight and maintenance training and services at locations the department
8 of emergency and military affairs owns, administers or controls property.
9 If the department of emergency and military affairs determines to proceed
10 with a public-private partnership pursuant to this subsection, the
11 department of emergency and military affairs and the department of
12 administration shall work together to develop a request for proposals.
13 The procurement of a private sector entity may only be done through a
14 request for proposals.

15 B. The department of emergency and military affairs and the
16 department of administration shall jointly establish eligibility
17 requirements for private sector entities to be considered and the services
18 and duties to be performed by the selected private sector entity. Private
19 sector entities working with other companies to meet the eligibility
20 requirements shall provide evidence of executed contracts or agreements
21 with those companies. Private sector entities are required to demonstrate
22 actual experience and ability to perform all elements of the scope of the
23 work and other duties contained in the request for proposals. The private
24 sector entity that is selected must have provided evidence to the
25 satisfaction of the department of emergency and military affairs and the
26 department of administration that it has the capacity to operate all
27 facets of the military aviation training partnership program under the
28 oversight of the department of emergency and military affairs and the
29 ability to do all of the following:

- 30 1. Deliver services without using any state monies.
- 31 2. Procure required or desired personnel, goods, services and
32 construction at the entity's own expense using the entity's corporate
33 systems, procedures and methods.
- 34 3. Administer all assigned aspects of the flight and maintenance
35 training program under the oversight of the department of emergency and
36 military affairs.

37 C. The department of emergency and military affairs may not use any
38 state monies to pay for services rendered by the private sector entity to
39 the United States or any foreign military personnel unless it has
40 established written agreements regarding reimbursement for the
41 expenditures. The department of emergency and military affairs shall
42 ensure it has written agreements with the private sector entity regarding
43 reimbursement or cost recovery and may include, at the department of
44 emergency and military affair's discretion, accepting desired in-kind

1 services for any allocated space or resources used by the private sector
2 entity.

3 D. The department of administration and the department of emergency
4 and military affairs shall comply with the requirements of section
5 41-2559, subsection E, Arizona Revised Statutes, before any public-private
6 partnership contract is awarded pursuant to this section. The department
7 of administration and the department of emergency and military affairs
8 shall cooperate with and be responsive to the joint legislative budget
9 committee staff on information requests made by the staff regarding the
10 operation of the public-private partnership after a contract has been
11 awarded.

12 E. The establishment of a military aviation training program
13 public-private partnership by the department of emergency and military
14 affairs is exempt from section 41-2752, Arizona Revised Statutes, if there
15 is training only of military personnel and if there is use only of
16 aircraft in the United States department of defense's inventory or
17 procured by a foreign partner for military purposes through the United
18 States foreign military sales program.

19 F. A public-private partnership contract executed pursuant to this
20 section may not:

21 1. Cause this state to share in the liabilities of the private
22 sector partner.

23 2. Exempt the private sector partner from state law and regulations
24 unless such an exemption is specified under the laws of this state.

25 G. Notwithstanding any other law, the existing rules adopted
26 pursuant to section 41-2514, Arizona Revised Statutes, including those
27 that apply to section 41-2559, Arizona Revised Statutes, also apply to
28 this section.

29 H. This section is repealed from and after September 30, 2026.

30 Sec. 3. Saving clause

31 The repeal of section 2 of this act does not affect any contractual
32 rights, contractual obligations or contractual duties entered into
33 pursuant to this act or any rules that apply to those contracts.

34 Sec. 4. Emergency

35 This act is an emergency measure that is necessary to preserve the
36 public peace, health or safety and is operative immediately as provided by
37 law.