

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HOUSE BILL 2647

AN ACT

AMENDING TITLE 41, CHAPTER 11, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1608; REPEALING SENATE BILL 1028, SECTION 10, FORTY-NINTH LEGISLATURE, FIRST REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; AMENDING SECTION 28-3396, ARIZONA REVISED STATUTES, AS AMENDED BY SENATE BILL 1028, SECTION 13, FORTY-NINTH LEGISLATURE, FIRST REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; AMENDING SECTION 38-842, ARIZONA REVISED STATUTES, AS AMENDED BY SENATE BILL 1028, SECTION 16, FORTY-NINTH LEGISLATURE, FIRST REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; AMENDING SENATE BILL 1028, SECTIONS 25 AND 26, FORTY-NINTH LEGISLATURE, FIRST REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; REPEALING SENATE BILL 1028, SECTION 30, FORTY-NINTH LEGISLATURE, FIRST REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; AMENDING SENATE BILL 1028, SECTION 32, FORTY-NINTH LEGISLATURE, FIRST REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; REPEALING SENATE BILL 1028, SECTION 33, FORTY-NINTH LEGISLATURE, FIRST REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; AMENDING SENATE BILL 1028, SECTIONS 34 AND 35, FORTY-NINTH LEGISLATURE, FIRST REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; MAKING APPROPRIATIONS; RELATING TO CRIMINAL JUSTICE BUDGET RECONCILIATION; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 41, chapter 11, article 1, Arizona Revised Statutes,
3 is amended by adding section 41-1608, to read:
4 41-1608. Inmate medical services; rate structure
5 IF A PRISONER IN A SECURE CARE FACILITY REQUIRES HEALTH CARE SERVICES
6 THAT THE DEPARTMENT, THE FACILITY OR A PRIVATE PRISON PROVIDER CONTRACTED BY
7 THE DEPARTMENT CANNOT PROVIDE, THE DEPARTMENT SHALL PAY APPROVED CLAIMS FROM
8 A FACILITY OR PROVIDER THAT PROVIDES THESE SERVICES AS FOLLOWS:
9 1. FOR INPATIENT AND OUTPATIENT HOSPITAL SERVICES, THE DEPARTMENT
10 SHALL REIMBURSE AT A LEVEL THAT DOES NOT EXCEED THE REIMBURSEMENT METHODOLOGY
11 ESTABLISHED PURSUANT TO SECTION 36-2903.01, SUBSECTION H.
12 2. FOR HEALTH AND MEDICAL SERVICES, THE DEPARTMENT SHALL REIMBURSE AT
13 A LEVEL THAT DOES NOT EXCEED THE CAPPED FEE-FOR-SERVICE SCHEDULE THAT IS
14 ADOPTED BY THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION
15 PURSUANT TO TITLE 36, CHAPTER 29, ARTICLE 1 AND THAT IS IN EFFECT AT THE TIME
16 THE SERVICES ARE DELIVERED.
17 Sec. 2. Repeal
18 Senate Bill 1028, section 10, forty-ninth legislature, first regular
19 session, as transmitted to the governor, is repealed.
20 Sec. 3. Section 28-3396, Arizona Revised Statutes, as amended by
21 Senate Bill 1028, section 13, forty-ninth legislature, first regular session,
22 as transmitted to the governor, is amended to read:
23 28-3396. Court diversion fee
24 A. The presiding judge of each court shall:
25 1. Set the amount of the court diversion fee that an individual who
26 attends a defensive driving school may be assessed.
27 2. Charge an individual a forty-five dollar surcharge if the
28 individual attends a defensive driving school.
29 3. Immediately inform the supreme court in writing of the amount of
30 the court diversion fee that is established for the court and the total cost
31 to attend a defensive driving school.
32 4. Immediately inform the supreme court in writing of any changes in
33 the total cost to attend a defensive driving school.
34 B. Payment of the court diversion fee and surcharge is in lieu of
35 payment of a civil penalty or criminal fine and any surcharge that are
36 imposed for a traffic violation.
37 C. The driving school shall collect the court diversion fee and
38 surcharge before or at the time an individual attends the school. On receipt
39 of the diversion fee, the defensive driving school shall transmit the fee
40 promptly to the appropriate court pursuant to procedures prescribed by the
41 supreme court. On receipt of the surcharge, the defensive driving school
42 shall transmit the surcharge promptly to the state treasurer for deposit AS
43 FOLLOWS:

1 1. THE STATE TREASURER SHALL DEPOSIT THE FIRST TEN MILLION FOUR
2 HUNDRED THOUSAND DOLLARS IN REVENUE ANNUALLY in the crime laboratory
3 operations fund established by section 41-1772.

4 2. THE STATE TREASURER SHALL DEPOSIT ALL REMAINING REVENUE IN THE
5 STATE GENERAL FUND.

6 Sec. 4. Section 38-842, Arizona Revised Statutes, as amended by Senate
7 Bill 1028, section 16, forty-ninth legislature, first regular session, as
8 transmitted to the governor, is amended to read:

9 38-842. Definitions

10 In this article, unless the context otherwise requires:

11 1. "Accidental disability" means a physical or mental condition that
12 the local board finds totally and permanently prevents an employee from
13 performing a reasonable range of duties within the employee's job
14 classification and that was incurred in the performance of the employee's
15 duty.

16 2. "Accumulated contributions" means, for each member, the sum of the
17 amount of the member's aggregate contributions made to the fund and the
18 amount, if any, attributable to the employee's contributions prior to the
19 member's effective date under another public retirement system, other than
20 the federal social security act, and transferred to the fund minus the
21 benefits paid to or on behalf of the member.

22 3. "Actuarial equivalent" means equality in present value of the
23 aggregate amounts expected to be received under two different forms of
24 payment, based on mortality and interest assumptions adopted by the fund
25 manager. The fund manager may from time to time change the mortality and
26 interest assumptions.

27 4. "Alternate payee" means the spouse or former spouse of a
28 participant as designated in a domestic relations order.

29 5. "Alternate payee's portion" means benefits that are payable to an
30 alternate payee pursuant to a plan approved domestic relations order.

31 6. "Average monthly benefit compensation" means the result obtained by
32 dividing the total compensation paid to an employee during a considered
33 period by the number of months, including fractional months, in which such
34 compensation was received. The considered period shall be the three
35 consecutive years within the last twenty completed years of credited service
36 that yield the highest average. In the computation under this paragraph a
37 period of nonpaid or partially paid industrial leave shall be considered
38 based on the compensation the employee would have received in the employee's
39 job classification if the employee was not on industrial leave.

40 7. "Catastrophic disability" means a physical and not a psychological
41 condition that the local board determines prevents the employee from totally
42 and permanently engaging in any gainful employment and that results from a
43 physical injury incurred in the performance of the employee's duty.

44 8. "Certified peace officer" means a peace officer certified by the
45 Arizona peace officers standards and training board.

1 9. "Claimant" means any member or beneficiary who files an application
2 for benefits pursuant to this article.

3 10. "Compensation" means, for the purpose of computing retirement
4 benefits, base salary, overtime pay, shift differential pay and holiday pay
5 paid to an employee by the employer on a regular monthly, semimonthly or
6 biweekly payroll basis and longevity pay paid to an employee at least every
7 six months for which contributions are made to the system pursuant to section
8 38-843, subsection D. Compensation does not include, for the purpose of
9 computing retirement benefits, payment for unused sick leave, payment in lieu
10 of vacation, payment for compensatory time or payment for any fringe
11 benefits. In addition, compensation does not include, for the purpose of
12 computing retirement benefits, payments made directly or indirectly by the
13 employer to the employee for work performed for a third party on a contracted
14 basis or any other type of agreement under which the third party pays or
15 reimburses the employer for the work performed by the employee for that third
16 party, EXCEPT FOR THIRD PARTY CONTRACTS BETWEEN PUBLIC AGENCIES FOR LAW
17 ENFORCEMENT, TRAINING, WILDFIRE AND EMERGENCY MANAGEMENT ACTIVITIES. For the
18 purposes of this paragraph, "base salary" means the amount of compensation
19 each employee is regularly paid for personal services rendered to an employer
20 before the addition of any extra monies, including overtime pay, shift
21 differential pay, holiday pay, longevity pay, fringe benefit pay and similar
22 extra payments.

23 11. "Credited service" means the member's total period of service prior
24 to the member's effective date of participation, plus those compensated
25 periods of the member's service thereafter for which the member made
26 contributions to the fund.

27 12. "Cure period" means the ninety-day period in which a participant or
28 alternate payee may submit an amended domestic relations order and request a
29 determination, calculated from the time the system issues a determination
30 finding that a previously submitted domestic relations order did not qualify
31 as a plan approved domestic relations order.

32 13. "Depository" means a bank in which all monies of the system are
33 deposited and held and from which all expenditures for benefits, expenses and
34 investments are disbursed.

35 14. "Determination" means a written document that indicates to a
36 participant and alternate payee whether a domestic relations order qualifies
37 as a plan approved domestic relations order.

38 15. "Determination period" means the ninety-day period in which the
39 system must review a domestic relations order that is submitted by a
40 participant or alternate payee to determine whether the domestic relations
41 order qualifies as a plan approved domestic relations order, calculated from
42 the time the system mails a notice of receipt to the participant and
43 alternate payee.

44 16. "Domestic relations order" means an order of a court of this state
45 that is made pursuant to the domestic relations laws of this state and that

1 creates or recognizes the existence of an alternate payee's right to, or
2 assigns to an alternate payee the right to, receive a portion of the benefits
3 payable to a participant.

4 17. "Effective date of participation" means July 1, 1968, except with
5 respect to employers and their covered employees whose contributions to the
6 fund commence thereafter, the effective date of their participation in the
7 system is as specified in the applicable joinder agreement.

8 18. "Effective date of vesting" means the date a member's rights to
9 benefits vest pursuant to section 38-844.01.

10 19. "Eligible child" means the unmarried child of a deceased member who
11 is under the age of eighteen or a full-time student who is under the age of
12 twenty-three or under a disability that began before the child attained the
13 age of twenty-three and who remains a dependent of the surviving spouse or
14 guardian.

15 20. "Eligible groups" means only the following who are regularly
16 assigned to hazardous duty:

17 (a) Municipal police officers who are certified peace officers.

18 (b) Municipal fire fighters.

19 (c) Paid full-time fire fighters employed directly by a fire district
20 organized pursuant to section 48-803 or 48-804 with three or more full-time
21 fire fighters, but not including fire fighters employed by a fire district
22 pursuant to a contract with a corporation.

23 (d) State highway patrol officers who are certified peace officers.

24 (e) State fire fighters.

25 (f) County sheriffs and deputies who are certified peace officers.

26 (g) Game and fish wardens who are certified peace officers.

27 (h) Police officers who are certified peace officers and fire fighters
28 of a nonprofit corporation operating a public airport pursuant to sections
29 28-8423 and 28-8424. A police officer shall be designated pursuant to
30 section 28-8426 to aid and supplement state and local law enforcement
31 agencies and a fire fighter's sole duty shall be to perform fire fighting
32 services, including services required by federal regulations.

33 (i) Police officers who are certified peace officers and who are
34 appointed by the Arizona board of regents.

35 (j) Police officers who are certified peace officers and who are
36 appointed by a community college district governing board.

37 (k) State attorney general investigators who are certified peace
38 officers.

39 (l) County attorney investigators who are certified peace officers.

40 (m) Police officers who are certified peace officers and who are
41 employed by an Indian reservation police agency.

42 (n) Fire fighters who are employed by an Indian reservation fire
43 fighting agency.

44 (o) Police officers who are certified peace officers and who are
45 appointed by the department of administration.

1 (p) Department of liquor licenses and control investigators who are
2 certified peace officers.

3 (q) Arizona department of agriculture officers who are certified peace
4 officers.

5 (r) Arizona state parks board rangers and managers who are certified
6 peace officers.

7 (s) County park rangers who are certified peace officers.

8 21. "Employee" means any person who is employed by a participating
9 employer and who is a member of an eligible group but does not include any
10 persons compensated on a contractual or fee basis. If an eligible group
11 requires certified peace officer status and at the option of the local board,
12 employee may include a person who is training to become a certified peace
13 officer.

14 22. "Employers" means:

15 (a) Cities contributing to the fire fighters' relief and pension fund
16 as provided in sections 9-951 through 9-971 or statutes amended thereby and
17 antecedent thereto, as of June 30, 1968 on behalf of their full-time paid
18 fire fighters.

19 (b) Cities contributing under the state police pension laws as
20 provided in sections 9-911 through 9-934 or statutes amended thereby and
21 antecedent thereto, as of June 30, 1968 on behalf of their municipal
22 policemen.

23 (c) The state highway patrol covered under the state highway patrol
24 retirement system.

25 (d) The state, or any political subdivision of this state, including
26 towns, cities, fire districts, counties and nonprofit corporations operating
27 public airports pursuant to sections 28-8423 and 28-8424, that has elected to
28 participate in the system on behalf of an eligible group of public safety
29 personnel pursuant to a joinder agreement entered into after July 1, 1968.

30 (e) Indian tribes that have elected to participate in the system on
31 behalf of an eligible group of public safety personnel pursuant to a joinder
32 agreement entered into after July 1, 1968.

33 23. "Fund" means the public safety personnel retirement fund, which is
34 the fund established to receive and invest contributions accumulated under
35 the system and from which benefits are paid.

36 24. "Fund manager" means the fund manager of the system, who are the
37 persons appointed to invest and operate the fund.

38 25. "Local board" means the retirement board of the employer, who are
39 the persons appointed to administer the system as it applies to their members
40 in the system.

41 26. "Member" means any employee who meets all of the following
42 qualifications:

43 (a) Who is either a full-time paid municipal police officer, a
44 full-time paid fire fighter, a law enforcement officer who is employed by
45 this state including the director thereof, a state fire fighter who is

1 primarily assigned to fire fighting duties, a fire fighter or police officer
2 of a nonprofit corporation operating a public airport pursuant to sections
3 28-8423 and 28-8424, all ranks designated by the Arizona law enforcement
4 merit system council, a state attorney general investigator who is a
5 certified peace officer, a county attorney investigator who is a certified
6 peace officer, a police officer who is appointed by the department of
7 administration and who is a certified peace officer, a department of liquor
8 licenses and control investigator who is a certified peace officer, an
9 Arizona department of agriculture officer who is a certified peace officer,
10 an Arizona state parks board ranger or manager who is a certified peace
11 officer, a county park ranger who is a certified peace officer, a person who
12 is a certified peace officer and who is employed by an Indian reservation
13 police agency, a fire fighter who is employed by an Indian reservation fire
14 fighting agency or an employee included in a group designated as eligible
15 employees under a joinder agreement entered into by their employer after July
16 1, 1968 and who is or was regularly assigned to hazardous duty.

17 (b) Who, on or after the employee's effective date of participation,
18 is receiving compensation for personal services rendered to an employer or
19 would be receiving compensation except for an authorized leave of absence.

20 (c) Whose employment with an employer commenced prior to attainment of
21 age fifty.

22 (d) Whose customary employment is at least forty hours per week and
23 for more than six months in a calendar year.

24 (e) Who has not attained age sixty-five prior to the employee's
25 effective date of participation or who was over age sixty-five with
26 twenty-five years or more of service prior to the employee's effective date
27 of participation.

28 27. "Normal retirement date" means the first day of the calendar month
29 immediately following an employee's completion of twenty years of service or
30 the employee's sixty-second birthday and the employee's completion of fifteen
31 years of service.

32 28. "Notice of receipt" means a written document that is issued by the
33 system to a participant and alternate payee and that states that the system
34 has received a domestic relations order and a request for a determination
35 that the domestic relations order is a plan approved domestic relations
36 order.

37 29. "Ordinary disability" means a physical condition that the local
38 board determines will prevent an employee totally and permanently from
39 performing a reasonable range of duties within the employee's department or a
40 mental condition that the local board determines will prevent an employee
41 totally and permanently from engaging in any substantial gainful activity.

42 30. "Participant" means a member who is subject to a domestic relations
43 order.

44 31. "Participant's portion" means benefits that are payable to a
45 participant pursuant to a plan approved domestic relations order.

1 32. "Pension" means a series of monthly amounts that are payable to a
2 person who is entitled to receive benefits under the plan.

3 33. "Personal representative" means the personal representative of a
4 deceased alternate payee.

5 34. "Plan approved domestic relations order" means a domestic relations
6 order that the system approves as meeting all the requirements for a plan
7 approved domestic relations order as otherwise prescribed in this article.

8 35. "Regularly assigned to hazardous duty" means regularly assigned to
9 duties of the type normally expected of municipal police officers, municipal
10 or state fire fighters, eligible fire district fire fighters, state highway
11 patrol officers, county sheriffs and deputies, fish and game wardens, fire
12 fighters and police officers of a nonprofit corporation operating a public
13 airport pursuant to sections 28-8423 and 28-8424, police officers who are
14 appointed by the Arizona board of regents or a community college district
15 governing board, state attorney general investigators who are certified peace
16 officers, county attorney investigators who are certified peace officers,
17 police officers who are appointed by the department of administration and who
18 are certified peace officers, department of liquor licenses and control
19 investigators who are certified peace officers, Arizona department of
20 agriculture officers who are certified peace officers, Arizona state parks
21 board rangers and managers who are certified peace officers, county park
22 rangers who are certified peace officers, police officers who are certified
23 peace officers and who are employed by an Indian reservation police agency or
24 fire fighters who are employed by an Indian reservation fire fighting agency.
25 Those individuals who are assigned solely to support duties such as
26 secretaries, stenographers, clerical personnel, clerks, cooks, maintenance
27 personnel, mechanics and dispatchers are not assigned to hazardous duty
28 regardless of their position classification title. Since the normal duties
29 of those jobs described in this paragraph are constantly changing, questions
30 as to whether a person is or was previously regularly assigned to hazardous
31 duty shall be resolved by the local board on a case-by-case basis.
32 Resolutions by local boards are subject to rehearing and appeal.

33 36. "Retirement" means termination of employment after a member has
34 fulfilled all requirements for a pension. Retirement shall be considered as
35 commencing on the first day of the month immediately following a member's
36 last day of employment or authorized leave of absence, if later.

37 37. "Segregated funds" means the amount of benefits that would
38 currently be payable to an alternate payee pursuant to a domestic relations
39 order under review by the system, or a domestic relations order submitted to
40 the system that failed to qualify as a plan approved domestic relations
41 order, if the domestic relations order were determined to be a plan approved
42 domestic relations order.

43 38. "Service" means the last period of continuous employment of an
44 employee by the employers prior to the employee's retirement or the
45 employee's sixty-fifth birthday, whichever first occurs, except that if such

1 period includes employment during which the employee would not have qualified
2 as a member had the system then been effective, such as employment as a
3 volunteer fire fighter, then only twenty-five per cent of such noncovered
4 employment shall be considered as service. Any absence that is authorized by
5 an employer shall not be considered as interrupting continuity of employment
6 if the employee returns within the period of authorized absence. Transfers
7 between employers also shall not be considered as interrupting continuity of
8 employment. Any period during which a member is receiving sick leave
9 payments or a temporary disability pension shall be considered as service.
10 Notwithstanding any other provision of this paragraph, any period during
11 which a person was employed as a full-time paid fire fighter for a
12 corporation that contracted with an employer to provide firefighting services
13 on behalf of the employer shall be considered as service if the employer has
14 elected at its option to treat part or all of the period the firefighter
15 worked for the company as service in its applicable joinder agreement. Any
16 reference in this system to the number of years of service of an employee
17 shall be deemed to include fractional portions of a year.

18 39. "State" means the state of Arizona, including any department,
19 office, board, commission, agency or other instrumentality of the state.

20 40. "System" means the public safety personnel retirement system
21 established by this article.

22 41. "Temporary disability" means a physical or mental condition that
23 the local board finds totally and temporarily prevents an employee from
24 performing a reasonable range of duties within the employee's department and
25 that was incurred in the performance of the employee's duty.

26 Sec. 5. Senate Bill 1028, section 25, forty-ninth legislature, first
27 regular session, as transmitted to the governor, is amended to read:

28 Sec. 25. Justices of the peace; payment of compensation; fiscal
29 year 2009-2010; retroactivity

30 A. Notwithstanding section 22-117, subsection B, Arizona Revised
31 Statutes, ~~as amended by this act,~~ for fiscal year 2009-2010, the state shall
32 pay 19.25 per cent of the compensation and employee related expenditures of a
33 justice of the peace, and the county shall pay 80.75 per cent of the
34 compensation and employee related expenditures of a justice of the peace,
35 except that the county shall pay the full amount of the employer contribution
36 of the state retirement system or plan or any county health plan.

37 B. This section is effective retroactively to from and after June 30,
38 2009.

39 Sec. 6. Senate Bill 1028, section 26, forty-ninth legislature, first
40 regular session, as transmitted to the governor, is amended to read:

41 Sec. 26. State department of corrections; budget structure;
42 health care services

43 A. Notwithstanding any other law, the state department of corrections
44 shall report actual fiscal year 2008-2009, estimated fiscal year 2009-2010
45 and requested fiscal year 2010-2011 expenditures for each line item

1 delineated in the fiscal year 2009-2010 general appropriations act when the
2 department submits the fiscal year 2010-2011 budget request pursuant to
3 section 35-113, Arizona Revised Statutes. The information submitted for each
4 line item shall contain as much detail as submitted in previous years for
5 prior line items.

6 B. BEFORE OCTOBER 1, 2009, THE STATE DEPARTMENT OF CORRECTIONS SHALL
7 ISSUE A REQUEST FOR INFORMATION FOR THE PRIVATIZATION OF ALL CORRECTIONAL
8 HEALTH SERVICES, INCLUDING ALL MEDICAL AND DENTAL SERVICES, THAT ARE PROVIDED
9 IN A STATE OWNED AND OPERATED FACILITY. BEFORE PUBLICATION, THE REQUEST FOR
10 INFORMATION SHALL BE SUBMITTED FOR REVIEW TO THE JOINT LEGISLATIVE BUDGET
11 COMMITTEE.

12 ~~B.~~ C. The state department of corrections shall issue a request for
13 proposals to privatize all correctional health services THAT ARE PROVIDED IN
14 A STATE OWNED AND OPERATED FACILITY. The department shall award a contract
15 to a private provider of correctional health services that will provide such
16 services, including all medical and dental services, at a cost below the
17 fiscal year 2007-2008 total cost to the state for such services. Not later
18 than ~~November 30, 2009~~ JANUARY 1, 2010, and before issuance, the request for
19 proposals shall be submitted for review to the joint legislative budget
20 committee. The state department of corrections shall award a contract by May
21 1, 2010.

22 Sec. 7. Repeal

23 Senate Bill 1028, section 30, forty-ninth legislature, first regular
24 session, as transmitted to the governor, is repealed.

25 Sec. 8. Senate Bill 1028, section 32, forty-ninth legislature, first
26 regular session, as transmitted to the governor, is amended to read:

27 Sec. 32. Judicial productivity credit calculations; photo
28 enforcement citations; retroactivity

29 A. In fiscal year 2009-2010, state photo enforcement citations issued
30 pursuant to section 41-1722, Arizona Revised Statutes, shall not be included
31 in judicial productivity credit calculations.

32 B. THIS SECTION IS EFFECTIVE RETROACTIVELY TO FROM AND AFTER JUNE 30,
33 2009.

34 Sec. 9. Repeal

35 Senate Bill 1028, section 33, forty-ninth legislature, first regular
36 session, as transmitted to the governor, is repealed.

37 Sec. 10. Senate Bill 1028, section 34, forty-ninth legislature, first
38 regular session, as transmitted to the governor, is amended to read:

39 Sec. 34. Prison and other state owned facilities;
40 lease-purchase agreements

41 A. Not later than ~~May 1, 2010~~ JUNE 30, 2010, ~~in consultation with the~~
42 ~~state department of corrections~~, the department of administration shall enter
43 into ~~a~~ ONE OR MORE lease-purchase ~~finance agreement~~ AGREEMENTS THROUGH THE
44 SALE AND SIMULTANEOUS LEASE-PURCHASE OF A STATE DEPARTMENT OF CORRECTIONS
45 FACILITY OR ANY OTHER STATE OWNED FACILITY. IF THE LEASE-PURCHASE AGREEMENT

1 INVOLVES A STATE DEPARTMENT OF CORRECTIONS FACILITY, THE DEPARTMENT OF
2 ADMINISTRATION SHALL ENTER INTO THE LEASE-PURCHASE AGREEMENT IN CONSULTATION
3 WITH THE STATE DEPARTMENT OF CORRECTIONS. The agreement OR AGREEMENTS shall:

4 1. Result in net available proceeds of ~~\$495,000,000~~ NOT MORE THAN
5 \$250,000,000 IN THE STATE GENERAL FUND BEFORE DECEMBER 31, 2009 AND A TOTAL
6 AMOUNT OF NET AVAILABLE PROCEEDS OF NOT MORE THAN \$735,000,000 in the state
7 general fund by ~~May 1, 2010~~ JUNE 30, 2010.

8 2. Be for a fixed term of NOT MORE THAN twenty years.

9 3. Require the initial lease-purchase payment to be in fiscal year
10 2010-2011.

11 ~~4. Use state department of corrections prison facilities as~~
12 ~~collateral.~~

13 B. NOTWITHSTANDING SECTION 41-791.02, ARIZONA REVISED STATUTES, ANY
14 LEASE-PURCHASE AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION SHALL PROVIDE
15 THAT:

16 1. THE OBLIGATION OF THIS STATE TO MAKE ANY PAYMENT UNDER THE
17 AGREEMENT IS A CURRENT EXPENSE OF THE DEPARTMENT OF ADMINISTRATION, PAYABLE
18 EXCLUSIVELY FROM APPROPRIATED MONIES, AND IS NOT A GENERAL OBLIGATION
19 INDEBTEDNESS OF THIS STATE OR THE DEPARTMENT OF ADMINISTRATION.

20 2. IF THE LEGISLATURE FAILS TO APPROPRIATE MONIES OR THE DEPARTMENT OF
21 ADMINISTRATION FAILS TO ALLOCATE SUCH MONIES FOR ANY PAYMENT UNDER THE
22 AGREEMENT, THE AGREEMENT TERMINATES AT THE END OF THE CURRENT TERM AND THIS
23 STATE AND THE DEPARTMENT OF ADMINISTRATION ARE RELIEVED OF ANY SUBSEQUENT
24 OBLIGATION UNDER THE AGREEMENT.

25 3. THE DEPARTMENT OF ADMINISTRATION MAY COVENANT TO USE ITS BEST
26 EFFORTS TO BUDGET, OBTAIN, ALLOCATE AND MAINTAIN SUFFICIENT APPROPRIATED
27 MONIES TO MAKE PAYMENTS UNDER THE AGREEMENT, BUT THE AGREEMENT SHALL
28 ACKNOWLEDGE THAT APPROPRIATING STATE MONIES IS A LEGISLATIVE ACT AND IS
29 BEYOND THE CONTROL OF THE DEPARTMENT OF ADMINISTRATION OR ANY OTHER PARTY TO
30 THE AGREEMENT.

31 ~~B.~~ C. Notwithstanding any other law, the department of administration
32 may transfer some or all of this state's interest in any state department of
33 corrections prison facility OR ANY OTHER STATE OWNED FACILITY. ~~that is used~~
34 ~~as collateral pursuant to this section.~~ ANY AGREEMENTS OR TRANSACTIONS
35 DETERMINED BY THE DEPARTMENT OF ADMINISTRATION TO BE NECESSARY TO COMPLY WITH
36 THE REQUIREMENTS OF THIS SECTION ARE EXEMPT FROM TITLE 41, CHAPTER 23,
37 ARIZONA REVISED STATUTES. THE AUTHORITY CONFERRED BY THIS SECTION IS IN
38 ADDITION TO THE POWERS CONFERRED BY ANY OTHER LAW, WITHOUT REFERENCE TO ANY
39 OTHER LAW, AND IS FULL AUTHORITY FOR THE ACTIONS AUTHORIZED BY THIS SECTION,
40 INCLUDING ENTERING INTO AND PERFORMING AGREEMENTS WITHOUT REGARD TO THE
41 REQUIREMENTS OR PROCEDURES OF ANY OTHER LAW.

42 ~~C.~~ D. THIS STATE SHALL MAINTAIN OPERATIONS AT ANY FACILITY AND the
43 state department of corrections or a private contractor shall maintain
44 operations at any prison facility that is ~~used as collateral~~ SOLD pursuant to
45 this section.

1 C. This section is effective retroactively to from and after June 30,
2 2009.

3 Sec. 13. Collection enforcement revolving fund; attorney
4 general; use

5 Notwithstanding section 41-191.03, subsection B, Arizona Revised
6 Statutes, for fiscal year 2009-2010, the attorney general may use monies in
7 the collection enforcement revolving fund established by section 41-191.03,
8 Arizona Revised Statutes, for any operating expenses incurred by the
9 department of law.

10 Sec. 14. State department of corrections; health care
11 expenditures; fiscal year 2007-2008

12 Notwithstanding any other law, the state department of corrections may
13 use any nonappropriated state monies for the payment of inmate health care
14 expenditures incurred during fiscal year 2007-2008.

15 Sec. 15. State department of corrections; private prison beds

16 A. The state department of corrections shall issue a request for
17 proposals and contract for five thousand private prison beds in this state at
18 new or existing private prisons or at expansions of existing private prisons
19 in this state. The private vendor may bid for all or a portion of the five
20 thousand beds. The department may award the contract to one or more private
21 vendors. The request for proposals shall specify the length of the contract
22 period, except that the length of the contract period shall not exceed twenty
23 years. Not later than November 1, 2009, and before issuance, the proposed
24 request for proposals shall be submitted for review to the joint legislative
25 budget committee. All contracts shall be awarded by June 30, 2010. Each
26 calendar quarter, until all new beds are occupied, the department of
27 corrections shall submit a report to the joint legislative budget committee
28 on the status of the beds.

29 B. Section 41-1609.01, subsections I and J, Arizona Revised Statutes,
30 and section 41-2546, Arizona Revised Statutes, do not apply to any contract
31 pursuant to subsection A of this section.

32 C. Except as otherwise provided in this section, sections 41-1609,
33 41-1609.01, 41-1609.02, 41-1609.03 and 41-1609.04, Arizona Revised Statutes,
34 apply to any contract pursuant to subsection A of this section.

35 Sec. 16. State department of corrections; prison equipment and
36 operations

37 Notwithstanding any other law, in fiscal year 2009-2010, the state
38 department of corrections may use any nonappropriated monies for any start up
39 and operating costs that are associated with the four thousand new state beds
40 that were authorized in Laws 2007, chapter 261, section 9.

41 Sec. 17. Retroactivity

42 Section 28-3396, Arizona Revised Statutes, as amended by Senate Bill
43 1028, section 13, forty-ninth legislature, first regular session, as
44 transmitted to the governor, and as amended by this act, applies
45 retroactively to from and after June 30, 2009.

1 Sec. 18. Conditional enactment

2 This act does not become effective unless Senate Bill 1028, forty-ninth
3 legislature, first regular session, relating to criminal justice budget
4 reconciliation, becomes law.