

COMMITTEE ON JUDICIARY AND ELECTIONS  
SENATE AMENDMENTS TO H.B. 2222  
(Reference to House engrossed bill)

Amendment instruction key:

[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.

[Green underlining in brackets] indicates text added to new session law or text restoring existing law.

[~~GREEN STRIKEOUT IN BRACKETS~~] indicates new text removed from statute or previously enacted session law.

[~~Green strikeout in brackets~~] indicates text removed from existing statute, previously enacted session law or new session law.

<<Green carets>> indicate a section added to the bill.

<<~~Green strikeout in carets~~>> indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

2 Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes,  
3 is amended by adding section 9-500.52, to read:

4 9-500.52. Settlement agreements; report; review; declaration  
5 of statewide concern; definitions

6 A. AT LEAST NINETY DAYS BEFORE A CITY OR TOWN ENTERS INTO A  
7 SETTLEMENT AGREEMENT THAT IS \$500,000 OR MORE, THE CITY OR TOWN SHALL  
8 SUBMIT A SETTLEMENT AGREEMENT REPORT TO THE GOVERNOR, 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. BEFORE A CITY OR TOWN ENTERS INTO A SETTLEMENT AGREEMENT THAT IS  
12 \$1,000,000 OR MORE, THE CITY OR TOWN SHALL SUBMIT THE PROPOSED SETTLEMENT  
13 AGREEMENT TO THE JOINT LEGISLATIVE BUDGET COMMITTEE, WHICH SHALL REVIEW  
14 THE PROPOSED SETTLEMENT AGREEMENT AND MAY RECOMMEND THAT THE CITY OR TOWN  
15 AMEND THE PROPOSED SETTLEMENT AGREEMENT.

16 C. IF A CITY OR TOWN DOES NOT SUBMIT A PROPOSED SETTLEMENT  
17 AGREEMENT TO THE JOINT LEGISLATIVE BUDGET COMMITTEE PURSUANT TO SUBSECTION  
18 B OF THIS SECTION AND THE PROPOSED SETTLEMENT AGREEMENT IS FINALIZED, THE  
19 SETTLEMENT AGREEMENT IS NOT LEGALLY BINDING.

20 D. DUE TO THE IMPACT ON PUBLIC FINANCES, INCLUDING STATE FINANCES,  
21 LEGALLY BINDING CONTRACTS ENTERED INTO BY A CITY OR TOWN ARE A MATTER OF  
22 STATEWIDE CONCERN.

23 E. FOR THE PURPOSES OF THIS SECTION:

24 1. "SETTLEMENT AGREEMENT":

25 (a) MEANS A CONSENT DECREE, AN AGREEMENT OR ANY OTHER LEGALLY  
26 BINDING DOCUMENT OR REPRESENTATION THAT RESOLVES A THREATENED OR PENDING  
27 LAWSUIT BETWEEN A CITY OR TOWN AND ANOTHER PARTY BY REQUIRING A CITY OR  
28 TOWN TO TAKE LEGALLY BINDING ACTION.

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

30 (i) AGREEMENTS MADE UNDER TITLE 28 TO RESOLVE CONSTRUCTION CONTRACT  
31 DISPUTES.

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

4 (iii) AGREEMENTS MADE TO RESOLVE CONSTRUCTION CONTRACT CLAIMS MADE  
5 AGAINST THE CITY OR TOWN BY CONTRACTORS OR SUBCONTRACTORS.

6 (iv) THE SETTLEMENT OF A CIVIL LITIGATION LAWSUIT INVOLVING  
7 PERSONAL INJURY CLAIMS.

8 [(v) AGREEMENTS MADE UNDER TITLE 23 RELATED TO WORKERS'  
9 COMPENSATION.]

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

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

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

16 (c) THE PAYOR OF THE SETTLEMENT.

17 (d) THE RECIPIENT OF THE PAYMENT.

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

19 Sec. 2. Title 11, chapter 2, article 4, Arizona Revised Statutes,  
20 is amended by adding section 11-269.30, to read:

21 11-269.30. Settlement agreements; report; review; declaration  
22 of statewide concern; definitions

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

28 B. BEFORE A COUNTY ENTERS INTO A SETTLEMENT AGREEMENT THAT IS  
29 \$1,000,000 OR MORE, THE COUNTY SHALL SUBMIT THE PROPOSED SETTLEMENT  
30 AGREEMENT TO THE JOINT LEGISLATIVE BUDGET COMMITTEE, WHICH SHALL REVIEW  
31 THE PROPOSED SETTLEMENT AGREEMENT AND MAY RECOMMEND THAT THE COUNTY AMEND  
32 THE SETTLEMENT AGREEMENT.

33 C. IF A COUNTY DOES NOT SUBMIT A PROPOSED SETTLEMENT AGREEMENT TO  
34 THE JOINT LEGISLATIVE BUDGET COMMITTEE PURSUANT TO SUBSECTION B OF THIS  
35 SECTION AND THE PROPOSED SETTLEMENT AGREEMENT IS FINALIZED, THE SETTLEMENT  
36 AGREEMENT IS NOT LEGALLY BINDING.

37 D. DUE TO THE IMPACT ON PUBLIC FINANCES, INCLUDING STATE FINANCES,  
38 LEGALLY BINDING CONTRACTS ENTERED INTO BY A COUNTY ARE A MATTER OF  
39 STATEWIDE CONCERN.

40 E. FOR THE PURPOSES OF THIS SECTION:

41 1. "SETTLEMENT AGREEMENT":

42 (a) MEANS A CONSENT DECREE, AN AGREEMENT OR ANY OTHER LEGALLY  
43 BINDING DOCUMENT OR REPRESENTATION THAT RESOLVES A THREATENED OR PENDING  
44 LAWSUIT BETWEEN A COUNTY AND ANOTHER PARTY BY REQUIRING A COUNTY TO TAKE  
45 LEGALLY BINDING ACTION.

46 (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 TO RESOLVE CONSTRUCTION CONTRACT CLAIMS MADE  
7 AGAINST THE COUNTY BY CONTRACTORS OR SUBCONTRACTORS.

8 (iv) THE SETTLEMENT OF A CIVIL LITIGATION LAWSUIT INVOLVING  
9 PERSONAL INJURY CLAIMS.

10 [(v) AGREEMENTS MADE UNDER TITLE 23 RELATED TO WORKERS'  
11 COMPENSATION.]

12 2. "SETTLEMENT AGREEMENT REPORT" MEANS A REPORT THAT CONTAINS ALL  
13 OF THE FOLLOWING:

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

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

18 (c) THE PAYOR OF THE SETTLEMENT.

19 (d) THE RECIPIENT OF THE PAYMENT.

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

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

23 41-192. Powers and duties of attorney general; restrictions  
24 on state agencies as to legal counsel; exceptions;  
25 compromise and settlement monies; definitions

26 A. The attorney general shall have charge of and direct the  
27 department of law and shall serve as chief legal officer of the state.  
28 The attorney general shall:

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

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

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

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

39 5. Represent political subdivisions, school districts and  
40 municipalities in suits to enforce state or federal statutes pertaining to  
41 antitrust, restraint of trade or price-fixing activities or conspiracies,  
42 if the attorney general notifies in writing the political subdivisions,  
43 school districts and municipalities of the attorney general's intention to  
44 bring any such action on their behalf. At any time within thirty days  
45 after the notification, a political subdivision, school district or  
46 municipality, by formal resolution of its governing body, may withdraw the

1 authority of the attorney general to bring the intended action on its  
2 behalf.

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

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

25       8. Compile, publish and distribute to all state agencies,  
26 departments, boards, commissions and councils, and to other persons and  
27 government entities on request, at least every ten years, the Arizona  
28 agency handbook that sets forth and explains the major state laws that  
29 govern state agencies, including information on the laws relating to  
30 bribery, conflicts of interest, contracting with the government,  
31 disclosure of public information, discrimination, nepotism, financial  
32 disclosure, gifts and extra compensation, incompatible employment,  
33 political activity by employees, public access and misuse of public  
34 resources for personal gain. A supplement to the handbook reflecting  
35 revisions to the information contained in the handbook shall be compiled  
36 and distributed by the attorney general as deemed necessary.

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

38       1. Organize the department into such bureaus, subdivisions or units  
39 as ~~the~~ THE ATTORNEY GENERAL deems most efficient and economical, and  
40 consolidate or abolish them.

41       2. Adopt rules for the orderly conduct of the business of the  
42 department.

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

46       4. Compromise or settle any action or claim by or against this  
47 state or any department, board or agency of this state. If the compromise

1 or settlement involves a particular department, board or agency of this  
2 state, the compromise or settlement shall be first approved by the  
3 department, board or agency. If no department or agency is named or  
4 otherwise materially involved, the approval of the governor shall be first  
5 obtained. **AT LEAST THIRTY DAYS BEFORE ENTERING INTO A SETTLEMENT**  
6 **AGREEMENT, THE ATTORNEY GENERAL SHALL SUBMIT A SETTLEMENT AGREEMENT REPORT**  
7 **TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF**  
8 **REPRESENTATIVES DESCRIBING THE PROPOSED TERMS OF THE SETTLEMENT AGREEMENT.**

9         5. Charge reasonable fees for distributing official publications,  
10 including attorney general legal opinions and the Arizona agency handbook.  
11 The fees received shall be transmitted to the state treasurer for deposit  
12 in the state general fund.

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

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

- 20         1. The director of water resources.
- 21         2. The residential utility consumer office.
- 22         3. The industrial commission **OF ARIZONA.**
- 23         4. The Arizona board of regents.
- 24         5. The auditor general.
- 25         6. The corporation commissioners and the corporation commission
- 26 other than the securities division.
- 27         7. The office of the governor.
- 28         8. The constitutional defense council.
- 29         9. The office of the state treasurer.
- 30         10. The Arizona commerce authority.
- 31         11. The water infrastructure finance authority of Arizona.

32         E. If the attorney general determines that ~~he~~ **THE ATTORNEY GENERAL**  
33 is disqualified from providing judicial or quasi-judicial legal  
34 representation or legal services on behalf of any state agency in relation  
35 to any matter, the attorney general shall give written notification to the  
36 state agency affected. If the agency has received written notification  
37 from the attorney general that the attorney general is disqualified from  
38 providing judicial or quasi-judicial legal representation or legal  
39 services in relation to any particular matter, the state agency is  
40 authorized to make expenditures and incur indebtedness to employ attorneys  
41 to provide the representation or services.

42         F. If the attorney general and the director of the department of  
43 agriculture cannot agree on the final disposition of a pesticide complaint  
44 under section 3-368, if the attorney general and the director determine  
45 that a conflict of interest exists as to any matter or if the attorney  
46 general and the director determine that the attorney general does not have  
47 the expertise or attorneys available to handle a matter, the director is

1 authorized to make expenditures and incur indebtedness to employ attorneys  
2 to provide representation or services to the department with regard to  
3 that matter.

4 G. Any department or agency of this state authorized by law to  
5 maintain a legal division or incur expenses for legal services from funds  
6 derived from sources other than the general revenue of the state, or from  
7 any special or trust fund, shall pay from such source of revenue or  
8 special or trust fund into the general fund of the state, to the extent  
9 such funds are available and on a reimbursable basis for warrants drawn,  
10 the amount actually expended by the department of law within legislative  
11 appropriations for such legal division or legal services.

12 H. Appropriations made pursuant to subsection G of this section  
13 shall not be subject to lapsing provisions otherwise provided by law.  
14 Services for departments or agencies to which this subsection and  
15 subsection F of this section are applicable shall be performed by special  
16 or regular assistants to the attorney general.

17 I. Notwithstanding section 35-148, monies received by the attorney  
18 general from charges to state agencies and political subdivisions for  
19 legal services relating to interagency service agreements shall be  
20 deposited, pursuant to sections 35-146 and 35-147, in an attorney general  
21 agency services fund. Monies in the fund are subject to legislative  
22 appropriation and are exempt from the provisions of section 35-190  
23 relating to lapsing of appropriations.

24 J. Unless otherwise provided by law, monies received for and  
25 belonging to the state and resulting from compromises and settlements  
26 entered into pursuant to subsection B of this section, excluding  
27 restitution and reimbursement to state agencies for costs or attorney  
28 fees, shall be deposited into the state treasury and credited to the state  
29 general fund pursuant to section 35-142. Monies received for and  
30 belonging to the state and resulting from a compromise or settlement are  
31 not considered custodial, private or quasi-private monies unless  
32 specifically provided by law. On or before January 15, April 15, July 15  
33 and October 15, the attorney general shall file with the governor, with  
34 copies to the director of the department of administration, the president  
35 of the senate, the speaker of the house of representatives, the secretary  
36 of state and the staff director of the joint legislative budget committee,  
37 a full and complete account of the deposits into the state treasury made  
38 pursuant to this subsection in the previous calendar quarter. For the  
39 purposes of this subsection, "restitution" means monies intended to  
40 compensate a specific, identifiable person, including this state, for  
41 economic loss.

42 K. FOR THE PURPOSES OF THIS SECTION:

43 1. "SETTLEMENT AGREEMENT":

44 (a) MEANS A CONSENT DECREE, AN AGREEMENT OR ANY OTHER LEGALLY  
45 BINDING DOCUMENT OR REPRESENTATION THAT RESOLVES A THREATENED OR PENDING  
46 LAWSUIT BETWEEN THIS STATE AND ANOTHER PARTY BY REQUIRING THIS STATE TO  
47 TAKE LEGALLY BINDING ACTION.

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

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

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

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

10 (iv) THE SETTLEMENT OF A CIVIL LITIGATION LAWSUIT INVOLVING  
11 PERSONAL INJURY CLAIMS.

12 [(v) AGREEMENTS MADE UNDER TITLE 23 RELATED TO WORKERS'  
13 COMPENSATION.]

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

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

19 (b) STATES THE PAYOR OF THE SETTLEMENT.

20 (c) STATES THE RECIPIENT OF THE PAYMENT.

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

22 Enroll and engross to conform

23 Amend title to conform

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