

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HOUSE BILL 2582

AN ACT

AMENDING SECTION 12-820.02, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 41, CHAPTER 12, ARTICLE 1, ARIZONA REVISED STATUTES, TO "GENERAL PROVISIONS"; AMENDING TITLE 41, CHAPTER 12, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1702; AMENDING TITLE 41, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 20; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3016.01; MAKING APPROPRIATIONS; RELATING TO IMMIGRATION POLICY IMPLEMENTATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 12-820.02, Arizona Revised Statutes, is amended to
3 read:

4 12-820.02. Qualified immunity

5 A. Unless a public employee acting within the scope of the public
6 employee's employment intended to cause injury or was grossly negligent,
7 neither a public entity nor a public employee is liable for:

8 1. The failure to make an arrest or the failure to retain an arrested
9 person in custody.

10 2. An injury caused by an escaping or escaped prisoner or a youth
11 committed to the department of juvenile corrections.

12 3. An injury resulting from the probation, community supervision or
13 discharge of a prisoner or a youth committed to the department of juvenile
14 corrections, from the terms and conditions of the prisoner's or youth's
15 probation or community supervision or from the revocation of the prisoner's
16 or youth's probation, community supervision or conditional release under the
17 psychiatric security review board.

18 4. An injury caused by a prisoner to any other prisoner or an injury
19 caused by a youth committed to the department of juvenile corrections to any
20 other committed youth.

21 5. The issuance of or failure to revoke or suspend any permit,
22 license, certificate, approval, order or similar authorization for which
23 absolute immunity is not provided pursuant to section 12-820.01.

24 6. The failure to discover violations of any provision of law when
25 inspections are done of property other than property owned by the public
26 entity in question.

27 7. An injury to the driver of a motor vehicle that is attributable to
28 the violation by the driver of section 28-693, 28-1381 or 28-1382.

29 8. The failure to prevent the sale or transfer of a handgun to a
30 person whose receipt or possession of the handgun is unlawful under any
31 federal law or any law of this state.

32 9. Preventing the sale or transfer of a handgun to a person who may
33 lawfully receive or possess a handgun.

34 10. The failure to detain a juvenile taken into temporary custody or
35 arrested for a criminal offense or delinquent or incorrigible act in the
36 appropriate detention facility, jail or lockup described in section 8-305.

37 11. THE ENFORCEMENT OF IMMIGRATION LAWS, THE DETENTION OR ARREST OF ANY
38 PERSON FOR IMMIGRATION LAW VIOLATIONS OR THE QUESTIONING OF ANY PERSON ABOUT
39 THE PERSON'S IMMIGRATION STATUS.

40 B. The qualified immunity provided in this section applies to a public
41 entity or public employee if the injury or damage was caused by a
42 contractor's employee or a contractor of a public entity acting within the
43 scope of the contract. The qualified immunity provided in this section does
44 not apply to the contractor or the contractor's employee.

1 C. MEMBERS APPOINTED PURSUANT TO SUBSECTION A, PARAGRAPHS 1, 2 AND 3
2 OF THIS SECTION SHALL SERVE AS ADVISORY NONVOTING MEMBERS OF THE COUNCIL.

3 D. THE VOTING MEMBERS OF THE COUNCIL SHALL ANNUALLY ELECT A
4 CHAIRPERSON FROM AMONG THE MEMBERS AND A MEMBER SHALL NOT SERVE CONSECUTIVE
5 TERMS AS CHAIRPERSON.

6 E. MEMBERS OF THE COUNCIL ARE NOT ELIGIBLE TO RECEIVE COMPENSATION BUT
7 MEMBERS WHO ARE APPOINTED PURSUANT TO SUBSECTION A, PARAGRAPHS 4 THROUGH 9 OF
8 THIS SECTION ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38,
9 CHAPTER 4, ARTICLE 2.

10 F. THE BORDER SECURITY COUNCIL MAY USE THE FACILITIES FOR MEETINGS AND
11 THE STAFF OF THE DEPARTMENT OF PUBLIC SAFETY.

12 G. THE BORDER SECURITY COUNCIL MAY ENTER INTO INTERAGENCY AGREEMENTS
13 FOR COUNCIL BUSINESS.

14 H. THE BORDER SECURITY COUNCIL SHALL:

15 1. MAKE GRANTS FROM ONE-HALF OF THE MONIES IN THE BORDER SECURITY FUND
16 ESTABLISHED BY SUBSECTION I OF THIS SECTION TO COUNTIES FOR TEMPORARY AND
17 MOVABLE DETAINMENT FACILITIES AND TENTS FOR IMMIGRATION CONTROL, INCLUDING
18 OPERATING AND PERSONNEL COSTS FOR SUCH DETAINMENT FACILITIES.

19 2. MAKE GRANTS FROM ONE-HALF OF THE MONIES IN THE BORDER SECURITY FUND
20 ESTABLISHED BY SUBSECTION I OF THIS SECTION TO CITY, TOWN AND COUNTY LAW
21 ENFORCEMENT AGENCIES, INCLUDING PROSECUTORS AND COUNTY ATTORNEYS, THAT APPLY
22 FOR MONIES FOR BORDER SECURITY PERSONNEL, PHYSICAL BARRIERS AND ANY OTHER
23 IMMIGRATION ENFORCEMENT PURPOSES.

24 3. RECEIVE QUARTERLY REPORTS FROM THE ENTITIES RECEIVING GRANTS AND
25 EVALUATE THEIR EFFECTIVENESS.

26 4. ON OR BEFORE DECEMBER 1 OF EACH YEAR, SUBMIT TO THE GOVERNOR, THE
27 PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES A
28 WRITTEN REPORT ON THE EFFECTIVENESS OF THE GRANTS PROVIDED AND PROVIDE A COPY
29 OF THIS REPORT TO THE SECRETARY OF STATE AND THE DIRECTOR OF THE ARIZONA
30 STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS.

31 I. THE BORDER SECURITY FUND IS ESTABLISHED CONSISTING OF LEGISLATIVE
32 APPROPRIATIONS, GIFTS, GRANTS, ANY CRIMINAL SURCHARGES, NOT IMPOSED FOR
33 ELECTION PURPOSES, FOR ANY OFFENSE RELATED TO IMMIGRATION CONTROL, AS
34 DETERMINED BY THE COUNCIL, AND, NOTWITHSTANDING ANY OTHER LAW, FOR FISCAL
35 YEARS 2006-2007 THROUGH 2010-2011, ALL ASSESSMENTS RECEIVED BY THE STATE
36 TREASURER PURSUANT TO SECTION 5-396, SUBSECTION J, SECTION 5-397, SUBSECTION
37 D, PARAGRAPH 5, SECTION 28-1381, SUBSECTION I, PARAGRAPH 5 AND SUBSECTION K,
38 PARAGRAPH 6, SECTION 28-1382, SUBSECTION D, PARAGRAPH 7 AND SUBSECTION F,
39 PARAGRAPH 7, SECTION 28-1383, SUBSECTION J, PARAGRAPH 5, SECTION 28-8284,
40 SUBSECTION D, PARAGRAPH 5, SECTION 28-8286, PARAGRAPH 7, SECTION 28-8287,
41 SUBSECTION A, PARAGRAPH 7 AND SECTION 28-8288, SUBSECTION A, PARAGRAPH 6.
42 THE BORDER SECURITY COUNCIL SHALL ADMINISTER THE FUND. MONIES IN THE FUND
43 ARE CONTINUOUSLY APPROPRIATED AND ARE EXEMPT FROM THE PROVISIONS OF SECTION
44 35-190 RELATING TO LAPSING OF APPROPRIATIONS. ON NOTICE FROM THE BORDER
45 SECURITY COUNCIL, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE

1 FUND AS PROVIDED IN SECTION 35-313, AND MONIES EARNED FROM INVESTMENTS SHALL
2 BE CREDITED TO THE FUND.

3 J. NOTWITHSTANDING ANY OTHER LAW, MONIES IN THE BORDER SECURITY FUND
4 SHALL NOT BE GRANTED TO ANY CITY, TOWN OR COUNTY:

5 1. THAT HAS ANY SANCTUARY POLICY INVOLVING ANY FORM OF AID TO ILLEGAL
6 IMMIGRANTS OR ANY REDUCED ENFORCEMENT OF ILLEGAL IMMIGRATION.

7 2. THAT DOES NOT EITHER DETAIN OR REFER TO APPROPRIATE FEDERAL
8 AGENCIES ALL ILLEGAL IMMIGRANTS.

9 Sec. 5. Title 41, chapter 27, article 2, Arizona Revised Statutes, is
10 amended by adding section 41-3016.01, to read:

11 41-3016.01. Border security council; termination July 1, 2016

12 A. THE BORDER SECURITY COUNCIL TERMINATES ON JULY 1, 2016.

13 B. TITLE 41, CHAPTER 20 IS REPEALED ON JANUARY 1, 2017.

14 Sec. 6. Initial terms of members of the border security council

15 A. Notwithstanding section 41-2351, Arizona Revised Statutes, as added
16 by this act, the initial terms of members of the border security council
17 appointed pursuant to section 41-2351, subsection A, paragraphs 4 through 9,
18 Arizona Revised Statutes, as added by this act, are:

19 1. Two terms ending January 1, 2008.

20 2. Three terms ending January 1, 2009.

21 3. Three terms ending January 1, 2010.

22 B. The appointing authorities shall make all subsequent appointments
23 as prescribed by statute.

24 Sec. 7. Purpose

25 Pursuant to section 41-2955, subsection E, Arizona Revised Statutes,
26 the purpose of the border security council is to make grants to political
27 subdivisions for border security.

28 Sec. 8. Appropriations; purposes; reports; billing; exemption

29 A. The following sums are appropriated from the state general fund in
30 fiscal year 2006-2007 for the purposes indicated:

31 1. \$15,000,000 to the border security fund established by section
32 41-2351, Arizona Revised Statutes, as added by this act, for grants to
33 counties only for incarceration operating expenses, including temporary and
34 movable detainment facilities and tents for immigration control.

35 2. \$15,000,000 to the border security fund established by section
36 41-2351, Arizona Revised Statutes, as added by this act, for grants to city,
37 town and county law enforcement agencies, city and town prosecutors and
38 county attorneys for border security personnel, physical barriers and other
39 immigration enforcement purposes.

40 3. \$10,000,000 to the department of public safety for the director to
41 expand the existing gang intelligence team enforcement mission into a gang
42 and immigration intelligence team enforcement mission for all existing gang
43 functions and new functions relating to immigration enforcement, including
44 border security, border personnel, incarceration, including temporary and
45 movable detainment structures and tents, and design and construction or

1 reconstruction of border physical barriers. The director shall coordinate
2 with local and federal law enforcement officials and shall keep the
3 immigration enforcement function fully staffed with available state and
4 federal monies to ensure that no impediment exists to state and local law
5 enforcement for border protection and security throughout Arizona.

6 4. \$10,000,000 to the department of public safety for additional
7 highway patrol officers exclusively for border security.

8 B. The director of the department of public safety shall provide
9 quarterly reports to the joint legislative budget committee beginning October
10 1, 2006 regarding the use and effectiveness of the monies appropriated
11 pursuant to subsection A, paragraphs 3 and 4 of this section.

12 C. The department of administration shall send billing invoices to the
13 federal government to recover the amount of the appropriations in subsection
14 A of this section for deposit in the state general fund.

15 D. The appropriations made in subsection A of this section are exempt
16 from the provisions of section 35-190, Arizona Revised Statutes, relating to
17 lapsing of appropriations.

18 Sec. 9. Legislative intent

19 It is the intent of the legislature that law enforcement agencies and
20 personnel fully comply with section 41-1702, Arizona Revised Statutes, as
21 added by this act, to accomplish the goal of supplementing the efforts of
22 federal law enforcement agencies, notwithstanding any local law enforcement
23 policies that would otherwise inhibit such compliance.

24 Sec. 10. Legislative intent

25 For the purposes of the appropriation to the department of public
26 safety for the gang and immigration intelligence team enforcement mission in
27 section 8, subsection A, paragraph 3 of this act, it is the intent of the
28 legislature to expand the existing gang intelligence team enforcement mission
29 and not to add a new unit or increased administration to the mission.