

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

H. B. _____

Introduced by _____

AN ACT

AMENDING SECTIONS 9-499.15 AND 36-2901, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 29, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-2901.07, 36-2901.08 AND 36-2901.09; AMENDING SECTION 41-1005, ARIZONA REVISED STATUTES; PROVIDING FOR THE CONDITIONAL REPEAL OF SECTIONS 36-2901.07 AND 36-2901.08, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 9-499.15, Arizona Revised Statutes, is amended to
3 read:
4 9-499.15. Proposed municipal taxes and fees: notification
5 required; exception
6 A. A municipality may not levy or assess any new taxes or fees or
7 increase existing taxes or fees pursuant to statute on a business without
8 complying with this section.
9 B. A municipality that proposes to levy or assess a tax or fee shall:
10 1. If the imposition of the proposed tax or fee is a new charge,
11 provide written notice of the proposed charge on the home page of the
12 municipality's website at least sixty days before the date the proposed new
13 tax or fee is approved or disapproved by the governing body of the
14 municipality.
15 2. If the municipality proposes to increase the rate of an existing
16 tax or fee on a business, provide written notice of the proposed increase on
17 the home page of the municipality's website at least sixty days before the
18 date the proposed new rate is approved or disapproved by the governing body
19 of the municipality.
20 C. A municipality shall demonstrate that the taxes or fees are imposed
21 pursuant to statute.
22 D. This section does not apply to any fee adopted pursuant to section
23 9-463.05.
24 E. IN ADDITION TO ANY OTHER LIMITATION THAT MAY BE IMPOSED BY LAW, A
25 MUNICIPALITY SHALL NOT LEVY OR IMPOSE AN ASSESSMENT, FEE OR TAX ON HOSPITAL
26 REVENUES, DISCHARGES, BEDS OR SERVICES FOR THE PURPOSES OF RECEIVING SERVICES
27 OR PAYMENTS PURSUANT TO TITLE 36, CHAPTER 29.
28 Sec. 2. Section 36-2901, Arizona Revised Statutes, is amended to read:
29 36-2901. Definitions
30 In this article, unless the context otherwise requires:
31 1. "Administration" means the Arizona health care cost containment
32 system administration.
33 2. "Administrator" means the administrator of the Arizona health care
34 cost containment system.
35 3. "Contractor" means a person or entity that has a prepaid capitated
36 contract with the administration pursuant to section 36-2904 to provide
37 health care to members under this article either directly or through
38 subcontracts with providers.
39 4. "Department" means the department of economic security.
40 5. "Director" means the director of the Arizona health care cost
41 containment system administration.

1 6. "Eligible person" means any person who is:
2 (a) Any of the following:
3 (i) Defined as mandatorily or optionally eligible pursuant to title
4 XIX of the social security act as authorized by the state plan.
5 (ii) Defined in title XIX of the social security act as an eligible
6 pregnant woman with a family income that does not exceed one hundred fifty
7 per cent of the federal poverty guidelines, as a child under the age of six
8 years and whose family income does not exceed one hundred thirty-three per
9 cent of the federal poverty guidelines or as children who have not attained
10 nineteen years of age and whose family income does not exceed one hundred per
11 cent of the federal poverty guidelines.
12 (iii) Under twenty-one years of age and who was in the custody of the
13 department of economic security pursuant to title 8, chapter 5 or 10 when the
14 person became eighteen years of age.
15 (iv) Defined as eligible pursuant to section 36-2901.01.
16 (v) Defined as eligible pursuant to section 36-2901.04.
17 (vi) **DEFINED AS ELIGIBLE PURSUANT TO SECTION 36-2901.07.**
18 (b) A full-time officer or employee of this state or of a city, town
19 or school district of this state or other person who is eligible for
20 hospitalization and medical care under title 38, chapter 4, article 4.
21 (c) A full-time officer or employee of any county in this state or
22 other persons authorized by the county to participate in county medical care
23 and hospitalization programs if the county in which such officer or employee
24 is employed has authorized participation in the system by resolution of the
25 county board of supervisors.
26 (d) An employee of a business within this state.
27 (e) A dependent of an officer or employee who is participating in the
28 system.
29 (f) Not enrolled in the Arizona long-term care system pursuant to
30 article 2 of this chapter.
31 (g) Defined as eligible pursuant to section 1902(a)(10)(A)(ii)(XV) and
32 (XVI) of title XIX of the social security act and who meets the income
33 requirements of section 36-2929.
34 7. "Graduate medical education" means a program, including an approved
35 fellowship, that prepares a physician for the independent practice of
36 medicine by providing didactic and clinical education in a medical discipline
37 to a medical student who has completed a recognized undergraduate medical
38 education program.
39 8. "Malice" means evil intent and outrageous, oppressive or
40 intolerable conduct that creates a substantial risk of tremendous harm to
41 others.
42 9. "Member" means an eligible person who enrolls in the system.
43 10. **"MODIFIED ADJUSTED GROSS INCOME" HAS THE SAME MEANING PRESCRIBED**
44 **IN 42 UNITED STATES CODE SECTION 1396a(e)(14).**

1 ~~10.~~ 11. "Noncontracting provider" means a person who provides health
2 care to members pursuant to this article but not pursuant to a subcontract
3 with a contractor.

4 ~~11.~~ 12. "Physician" means a person licensed pursuant to title 32,
5 chapter 13 or 17.

6 ~~12.~~ 13. "Prepaid capitated" means a mode of payment by which a health
7 care contractor directly delivers health care services for the duration of a
8 contract to a maximum specified number of members based on a fixed rate per
9 member notwithstanding:

10 (a) The actual number of members who receive care from the contractor.

11 (b) The amount of health care services provided to any member.

12 ~~13.~~ 14. "Primary care physician" means a physician who is a family
13 practitioner, general practitioner, pediatrician, general internist, or
14 obstetrician or gynecologist.

15 ~~14.~~ 15. "Primary care practitioner" means a nurse practitioner
16 certified pursuant to title 32, chapter 15 or a physician assistant certified
17 pursuant to title 32, chapter 25. This paragraph does not expand the scope
18 of practice for nurse practitioners as defined pursuant to title 32, chapter
19 15, or for physician assistants as defined pursuant to title 32, chapter 25.

20 ~~15.~~ 16. "Section 1115 waiver" means the research and demonstration
21 waiver granted by the United States department of health and human services.

22 ~~16.~~ 17. "Special health care district" means a special health care
23 district organized pursuant to title 48, chapter 31.

24 ~~17.~~ 18. "State plan" has the same meaning prescribed in section
25 36-2931.

26 ~~18.~~ 19. "System" means the Arizona health care cost containment system
27 established by this article.

28 Sec. 3. Title 36, chapter 29, article 1, Arizona Revised Statutes, is
29 amended by adding sections 36-2901.07, 36-2901.08 and 36-2901.09, to read:

30 ~~36-2901.07.~~ Definition of eligible person; conditional
31 eligibility

32 A. BEGINNING JANUARY 1, 2014, FOR THE PURPOSES OF SECTION 36-2901,
33 "ELIGIBLE PERSON" INCLUDES A PERSON WHO IS ELIGIBLE PURSUANT TO 42 UNITED
34 STATES CODE SECTION 1396a(a)(10)(A)(i)(VIII) AND WHOSE HOUSEHOLD'S MODIFIED
35 ADJUSTED GROSS INCOME IS MORE THAN ONE HUNDRED PER CENT BUT EQUAL TO OR LESS
36 THAN ONE HUNDRED THIRTY-THREE PER CENT OF THE FEDERAL POVERTY GUIDELINES.

37 B. THE ADMINISTRATION SHALL DISCONTINUE ELIGIBILITY FOR A PERSON WHO
38 IS ELIGIBLE PURSUANT TO SUBSECTION A OF THIS SECTION IF THE FEDERAL MEDICAL
39 ASSISTANCE PERCENTAGE ESTABLISHED PURSUANT TO 42 UNITED STATES CODE SECTION
40 1396d(y) OR 1396d(z) IS LESS THAN EIGHTY PER CENT.

41 ~~36-2901.08.~~ Hospital assessment

42 A. THE DIRECTOR SHALL ESTABLISH, ADMINISTER AND COLLECT AN ASSESSMENT
43 ON HOSPITALS FOR THE PURPOSES OF FUNDING THE NONFEDERAL SHARE OF THE COSTS
44 THAT ARE INCURRED BEGINNING JANUARY 1, 2014 OF ELIGIBILITY FOR PERSONS WHO
45 ARE DEFINED AS ELIGIBLE PURSUANT TO SECTION 36-2901.01 AND 36-2901.07.

1 B. THE METHOD FOR DETERMINING THE ASSESSMENT, THE AMOUNT OR RATE OF
2 THE ASSESSMENT, AND EXEMPTIONS FROM THE ASSESSMENT MUST BE APPROVED BY THE
3 FEDERAL GOVERNMENT AND MUST BE CONSISTENT WITH 42 UNITED STATES CODE SECTION
4 1396b(w) SUBJECT TO THE TERMS OF ANY APPLICABLE SECTION 1115 WAIVER.

5 C. THE DIRECTOR MAY ESTABLISH EXEMPTIONS TO THE ASSESSMENT. IN
6 DETERMINING THE EXEMPTIONS, THE DIRECTOR MAY CONSIDER FACTORS INCLUDING THE
7 SIZE OF THE HOSPITAL, THE SPECIALTY SERVICES AVAILABLE TO PATIENTS AND THE
8 GEOGRAPHIC LOCATION OF THE HOSPITAL.

9 D. BEFORE IMPLEMENTING THE ASSESSMENT, AND ANNUALLY THEREAFTER IF THE
10 METHODOLOGY IS MODIFIED, THE DIRECTOR SHALL PRESENT THE METHODOLOGY TO THE
11 JOINT LEGISLATIVE BUDGET COMMITTEE FOR REVIEW.

12 E. THE ADMINISTRATION SHALL NOT COLLECT AN ASSESSMENT FOR COSTS
13 ASSOCIATED WITH SERVICE AFTER THE EFFECTIVE DATE OF ANY REDUCTION OF THE
14 FEDERAL MEDICAL ASSISTANCE PERCENTAGE ESTABLISHED BY 42 UNITED STATES CODE
15 SECTION 1396d(y) OR 1396d(z) TO LESS THAN EIGHTY PER CENT.

16 F. THE ADMINISTRATION SHALL DEPOSIT THE REVENUES COLLECTED PURSUANT TO
17 THIS SECTION IN THE HOSPITAL ASSESSMENT FUND ESTABLISHED BY SECTION
18 36-2901.09.

19 36-2901.09. Hospital assessment fund

20 A. THE HOSPITAL ASSESSMENT FUND IS ESTABLISHED CONSISTING OF MONIES
21 COLLECTED PURSUANT TO SECTION 36-2901.08. THE DIRECTOR SHALL ADMINISTER THE
22 FUND.

23 B. THE DIRECTOR SHALL USE FUND MONIES ONLY AS NECESSARY TO SUPPLEMENT
24 MONIES IN THE PROPOSITION 204 PROTECTION ACCOUNT ESTABLISHED BY SECTION
25 36-778 AND THE ARIZONA TOBACCO LITIGATION SETTLEMENT FUND ESTABLISHED BY
26 SECTION 36-2901.02.

27 C. MONIES IN THE FUND:

28 1. DO NOT REVERT TO THE STATE GENERAL FUND.

29 2. ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO
30 LAPSING OF APPROPRIATIONS.

31 3. ARE CONTINUOUSLY APPROPRIATED.

32 Sec. 4. Section 41-1005, Arizona Revised Statutes, is amended to read:

33 41-1005. Exemptions

34 A. This chapter does not apply to any:

35 1. Rule that relates to the use of public works, including streets and
36 highways, under the jurisdiction of an agency if the effect of the order is
37 indicated to the public by means of signs or signals.

38 2. Order of the Arizona game and fish commission that opens, closes or
39 alters seasons or establishes bag or possession limits for wildlife.

40 3. Rule relating to section 28-641 or to any rule regulating motor
41 vehicle operation that relates to speed, parking, standing, stopping or
42 passing enacted pursuant to title 28, chapter 3.

43 4. Rule concerning only the internal management of an agency that does
44 not directly and substantially affect the procedural or substantive rights or
45 duties of any segment of the public.

1 5. Rule that only establishes specific prices to be charged for
2 particular goods or services sold by an agency.

3 6. Rule concerning only the physical servicing, maintenance or care of
4 agency owned or operated facilities or property.

5 7. Rule or substantive policy statement concerning inmates or
6 committed youths of a correctional or detention facility in secure custody or
7 patients admitted to a hospital, if made by the state department of
8 corrections, the department of juvenile corrections, the board of executive
9 clemency or the department of health services or a facility or hospital under
10 the jurisdiction of the state department of corrections, the department of
11 juvenile corrections or the department of health services.

12 8. Form whose contents or substantive requirements are prescribed by
13 rule or statute, and instructions for the execution or use of the form.

14 9. Capped fee-for-service schedule adopted by the Arizona health care
15 cost containment system administration pursuant to title 36, chapter 29.

16 10. Fees prescribed by section 6-125.

17 11. Order of the director of water resources adopting or modifying a
18 management plan pursuant to title 45, chapter 2, article 9.

19 12. Fees established under section 3-1086.

20 13. Fee-for-service schedule adopted by the department of economic
21 security pursuant to section 8-512.

22 14. Fees established under sections 41-2144 and 41-2189.

23 15. Rule or other matter relating to agency contracts.

24 16. Fees established under section 32-2067 or 32-2132.

25 17. Rules made pursuant to section 5-111, subsection A.

26 18. Rules made by the Arizona state parks board concerning the
27 operation of the Tonto natural bridge state park, the facilities located in
28 the Tonto natural bridge state park and the entrance fees to the Tonto
29 natural bridge state park.

30 19. Fees or charges established under section 41-511.05.

31 20. Emergency medical services protocols except as provided in section
32 36-2205, subsection B.

33 21. Fee schedules established pursuant to section 36-3409.

34 22. Procedures of the state transportation board as prescribed in
35 section 28-7048.

36 23. Rules made by the state department of corrections.

37 24. Fees prescribed pursuant to section 32-1527.

38 25. Rules made by the department of economic security pursuant to
39 section 46-805.

40 26. Schedule of fees prescribed by section 23-908.

41 27. Procedure that is established pursuant to title 23, chapter 6,
42 article ~~5~~ 6.

43 28. Rules, administrative policies, procedures and guidelines adopted
44 for any purpose by the Arizona commerce authority pursuant to chapter 10 of
45 this title if the authority provides, as appropriate under the circumstances,

1 for notice of an opportunity for comment on the proposed rules,
2 administrative policies, procedures and guidelines.

3 29. Rules made by a marketing commission or marketing committee
4 pursuant to section 3-414.

5 30. Administration of public assistance program monies authorized for
6 liabilities that are incurred for disasters declared pursuant to sections
7 26-303 and 35-192.

8 31. User charges, tolls, fares, rents, advertising and sponsorship
9 charges, services charges or similar charges established pursuant to section
10 28-7705.

11 32. ADMINISTRATION AND IMPLEMENTATION OF THE HOSPITAL ASSESSMENT
12 PURSUANT TO SECTION 36-2901.08, EXCEPT THAT THE ARIZONA HEALTH CARE COST
13 CONTAINMENT SYSTEM ADMINISTRATION MUST PROVIDE NOTICE AND AN OPPORTUNITY FOR
14 PUBLIC COMMENT AT LEAST THIRTY DAYS BEFORE ESTABLISHING OR IMPLEMENTING THE
15 ADMINISTRATION OF THE ASSESSMENT.

16 B. Notwithstanding subsection A, paragraph 22 of this section, at such
17 time as the federal highway administration authorizes the privatization of
18 rest areas, the state transportation board shall make rules governing the
19 lease or license by the department of transportation to a private entity for
20 the purposes of privatization of a rest area.

21 C. Coincident with the making of a final rule pursuant to an exemption
22 from the applicability of this chapter under this section, another statute or
23 session law, the agency shall file a copy of the rule with the secretary of
24 state for publication pursuant to section 41-1012 and provide a copy to the
25 council.

26 D. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
27 chapter do not apply to the Arizona board of regents and the institutions
28 under its jurisdiction, except that the Arizona board of regents shall make
29 policies or rules for the board and the institutions under its jurisdiction
30 that provide, as appropriate under the circumstances, for notice of and
31 opportunity for comment on the policies or rules proposed.

32 E. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
33 chapter do not apply to the Arizona state schools for the deaf and the blind,
34 except that the board of directors of all the state schools for the deaf and
35 the blind shall adopt policies for the board and the schools under its
36 jurisdiction that provide, as appropriate under the circumstances, for notice
37 of and opportunity for comment on the policies proposed for adoption.

38 F. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
39 chapter do not apply to the state board of education, except that the state
40 board of education shall adopt policies or rules for the board and the
41 institutions under its jurisdiction that provide, as appropriate under the
42 circumstances, for notice of and opportunity for comment on the policies or
43 rules proposed for adoption. In order to implement or change any rule, the
44 state board of education shall provide at least two opportunities for public
45 comment.

1 Sec. 5. Arizona health care cost containment system: hospital
2 workgroups

3 The Arizona health care cost containment system administration shall
4 establish work groups to study and provide input on the development of the
5 hospital assessment established pursuant to this act. The work groups shall
6 include, at a minimum, representatives from the urban, rural and critical
7 access hospital communities.

8 Sec. 6. Arizona health care cost containment system; cost
9 sharing

10 The Arizona health care cost containment system administration shall
11 pursue cost sharing requirements for members to the maximum extent allowed
12 under federal law.

13 Sec. 7. Conditional repeals

14 A. Sections 36-2901.07 and 36-2901.08, Arizona Revised Statutes, as
15 added by this act, are repealed:

16 1. From and after the date the federal medical assistance percentage
17 pursuant to 42 United States Code section 1396d(y) or 1396d(z) is less than
18 eighty per cent.

19 2. If the affordable care act established pursuant to Public Law
20 111-148, as amended by Public Law 111-152, is repealed.

21 B. The Arizona health care cost containment system administration
22 shall notify the director of the Arizona legislative council in writing of
23 the effective date if the federal medical assistance percentage pursuant to
24 42 United States Code section 1396d(y) or 1396d(z) is less than eighty per
25 cent or if the patient protection and affordable care act established
26 pursuant to Public Law 111-148, as amended by the health care and education
27 reconciliation act of 2010 pursuant to Public Law 111-152, is repealed.