



Bill Number: S.B. 1352

McComish Floor Amendment

Reference to: printed bill

Amendment drafted by: Bill Ritz

FLOOR AMENDMENT EXPLANATION

Specifies the tax rate for a government property improvement if it is determined that the improvement increases the costs of providing public safety services and outlines the allocation of those tax revenues to taxing jurisdictions in which government property improvements are located.

Amendment explanation prepared by Bill Ritz

3/11/2014

MCCOMISH FLOOR AMENDMENT

SENATE AMENDMENTS TO S.B. 1352

(Reference to printed bill)

1 Page 1, between lines 1 and 2, insert:

2 "Section 1. Section 42-6203, Arizona Revised Statutes, is amended to
3 read:

4 42-6203. Rates of tax

5 A. Except as otherwise provided in this section, if a lease of a
6 government property improvement was entered into before June 1, 2010, or if a
7 development agreement, ordinance or resolution was approved by the governing
8 body of the government lessor before June 1, 2010 that authorized a lease on
9 the occurrence of specified conditions and the lease was entered into within
10 ten years after the date the development agreement was entered into or the
11 ordinance or resolution was approved by the governing body:

12 1. The tax authorized by this article shall be levied and collected at
13 the following rates:

14 (a) One dollar per square foot of gross building space for office
15 buildings with one floor above ground.

16 (b) One dollar twenty-five cents per square foot of gross building
17 space for office buildings with more than one but fewer than eight floors
18 above ground.

19 (c) One dollar seventy-five cents per square foot of gross building
20 space for office buildings with eight floors or more above ground.

21 (d) One dollar fifty cents per square foot of retail building space,
22 including space that is devoted to the sale of tangible personal property,
23 restaurants, health clubs, hair salons, dry cleaners, travel agencies and
24 other retail services.

25 (e) One dollar fifty cents per square foot of hotel or motel building
26 space.

1 (f) Seventy-five cents per square foot of warehouse or industrial
2 building space.

3 (g) Fifty cents per square foot of residential rental building space.

4 (h) One hundred dollars per parking space located in a parking garage
5 or deck.

6 (i) One dollar per square foot of all other government property
7 improvements not included in subdivisions (a) through (h) of this paragraph.

8 2. The tax rate for government property improvements for which the
9 original certificate of occupancy was issued:

10 (a) At least ten years but less than twenty years before the date the
11 tax is due is eighty per cent of the rate provided in paragraph 1 of this
12 subsection.

13 (b) At least twenty years but less than thirty years before the date
14 the tax is due is sixty per cent of the rate provided in paragraph 1 of this
15 subsection.

16 (c) At least thirty but less than forty years before the date the tax
17 is due is forty per cent of the rate provided in paragraph 1 of this
18 subsection.

19 (d) At least forty but less than fifty years before the date the tax
20 is due is twenty per cent of the rate provided in paragraph 1 of this
21 subsection.

22 (e) Fifty or more years before the date the tax is due is zero.

23 3. If no certificate of occupancy can be located, dated aerial
24 photographs or other evidence of substantial completion may be used to
25 determine the age of the building for purposes of paragraph 2 of this
26 subsection.

27 4. A lease or development agreement, originally subject to this
28 subsection, that is subsequently amended remains subject to this subsection
29 if the amended lease or development agreement meets all of the following
30 requirements:

1 (a) The government lessor determines that the amendment furthers the
2 original purpose of the lease or development agreement.

3 (b) Any land added under the amendment is contiguous to the land under
4 the original lease or development agreement and does not increase the land
5 area under the original lease or development agreement by more than fifty per
6 cent.

7 (c) Any government property improvement added under the amendment does
8 not increase the area of gross building space of government property
9 improvements under the original lease or development agreement by more than
10 one hundred per cent.

11 B. Except as otherwise provided in this section, if a lease of a
12 government property improvement does not meet the conditions for applying
13 subsection A of this section:

14 1. Subject to paragraphs 2 and 3 of this subsection, the tax
15 authorized by this article shall be levied and collected at the following
16 base rates, which apply through December 31, 2011:

17 (a) Two dollars per square foot of gross building space for office
18 buildings with one floor above ground.

19 (b) Two dollars thirty cents per square foot of gross building space
20 for office buildings with more than one but fewer than eight floors above
21 ground.

22 (c) Three dollars ten cents per square foot of gross building space
23 for office buildings with eight floors or more above ground.

24 (d) Two dollars fifty-one cents per square foot of retail building
25 space, including space that is devoted to the sale of tangible personal
26 property, restaurants, health clubs, hair salons, dry cleaners, travel
27 agencies and other retail services.

28 (e) Two dollars per square foot of hotel or motel building space.

29 (f) One dollar thirty-five cents per square foot of warehouse or
30 industrial building space.

1 (g) Seventy-six cents per square foot of residential rental building
2 space.

3 (h) Two hundred dollars per parking space located in a parking garage
4 or deck.

5 (i) Two dollars per square foot of all other government property
6 improvements not included in subdivisions (a) through (h) of this paragraph.

7 2. If, in the tax year in which the lease of the government property
8 improvement is entered into, the aggregate of all ad valorem property tax
9 rates of all taxing jurisdictions in which the government property
10 improvement is located is at least ninety per cent of the countywide average
11 combined property tax rates, the rate of tax prescribed by paragraph 1 of
12 this subsection, as currently adjusted pursuant to paragraph 3 of this
13 subsection, applies with respect to that government property
14 improvement. If, in the tax year in which the lease of the government
15 property improvement is entered into, the aggregate of all ad valorem
16 property tax rates of all taxing jurisdictions in which the government
17 property improvement is located is less than ninety per cent of the
18 countywide average combined property tax rates, the rate of tax prescribed by
19 paragraph 1 of this subsection, as currently adjusted pursuant to paragraph 3
20 of this subsection, shall be reduced by ten per cent.

21 3. On or before December 1, 2011 and December 1 of each year
22 thereafter, for all government property leases that are subject to this
23 subsection the department of revenue shall adjust the tax rates that apply
24 under paragraphs 1 and 2 of this subsection in the following calendar year
25 for each property use according to the average annual positive or negative
26 percentage change for the two most recent fiscal years in the producer price
27 index for new construction or its successor index published by the United
28 States bureau of labor statistics. On or before December 15 of each year,
29 the department shall post the adjusted rates for the following calendar year
30 on its official website and transmit the adjusted rates to each county
31 treasurer.

1 C. The tax rate for a government property improvement that was
2 constructed pursuant to a lease or development agreement entered into from
3 and after June 30, 1996 and that is located outside a slum or blighted area
4 established pursuant to title 36, chapter 12, article 3 is one and one-half
5 times the rate established by subsections A and B of this section.

6 D. Within the first twenty years after the issuance of the original
7 certificate of occupancy, the tax rate on the use or occupancy of a
8 government property improvement is twenty per cent of the rate established in
9 subsections A and B of this section for any of the following:

10 1. Government property improvements that are subject to leases or
11 agreements that were entered into before April 1, 1985, and options and
12 rights contained in the leases or agreements.

13 2. Government property improvements that are subject to leases entered
14 into based on a redevelopment contract, as defined in section 36-1471,
15 entered into before April 1, 1985.

16 3. Government property improvements that are subject to leases entered
17 into based on an agreement for a redevelopment project for which federal
18 grant monies have been received and that was entered into before April 1,
19 1985.

20 4. Government property improvements that are located at an airport
21 that was owned on or before January 1, 1988 by a county having a population
22 of four hundred thousand persons or less or by a city or town that is located
23 in a county having a population of four hundred thousand persons or less if
24 the property is used primarily for manufacturing, retail, distribution,
25 research or commercial purposes. For the purposes of this paragraph,
26 "commercial" includes facilities for office, recreational, hotel, motel and
27 service uses.

28 E. Within the first ten years after the issuance of the certificate of
29 occupancy, the tax rate on the use or occupancy of a government property
30 improvement that is located in a slum or blighted area established pursuant
31 to title 36, chapter 12, article 3, that resulted or will result in an

1 increase in property value of at least one hundred per cent and that is not
2 eligible for abatement pursuant to section 42-6209 is eighty per cent of the
3 rate established in subsections A and B of this section.

4 F. The tax rate to be applied under subsection A or B of this section
5 shall be determined by the predominant use to which the government property
6 improvement is devoted, except that in all cases the tax rate prescribed by
7 subsection A, paragraph 1, subdivision (h) or subsection B, paragraph 1,
8 subdivision (h) of this section shall be applied to any parking garage or
9 deck. If there is no single predominant use, the tax shall be determined by
10 applying the appropriate tax rate to the building space devoted to each use
11 identified in that subsection. For the purposes of this subsection, in
12 applying the tax rates under subsection A of this section the functional area
13 of a government property improvement does not include subsidiary, auxiliary
14 or servient areas such as lobbies, stairwells, mechanical rooms and meeting
15 and banquet rooms. For the purposes of this subsection, "predominant use"
16 means the use to which eighty-five per cent or more of the functional area of
17 a government property improvement is devoted.

18 G. Prime lessees of government property improvements who become
19 taxable or whose taxable status terminates during the calendar year in which
20 the taxes are due, including prime lessees subject to exemption or abatement
21 under sections 42-6208 and 42-6209, shall pay tax for that calendar year on a
22 pro rata basis.

23 H. IF A GOVERNMENT PROPERTY IMPROVEMENT THAT WAS CONSTRUCTED PURSUANT
24 TO A LEASE OR DEVELOPMENT AGREEMENT FOR WHICH THE GOVERNMENT LESSOR
25 DETERMINED THAT THE USE OF THE GOVERNMENT PROPERTY IMPROVEMENT INCREASED THE
26 GOVERNMENT LESSOR'S COSTS OF PROVIDING PUBLIC SAFETY SERVICES, THE TAX
27 AUTHORIZED BY THIS ARTICLE SHALL BE LEVIED AND COLLECTED AT A RATE EQUAL TO
28 THE AMOUNT OF THE AD VALOREM PROPERTY TAX THAT WOULD BE PAYABLE PURSUANT TO
29 THIS TITLE IF THE LAND AND GOVERNMENT PROPERTY IMPROVEMENT WERE NOT OWNED BY
30 A GOVERNMENT LESSOR. THE PRIME LESSEE SHALL BE ENTITLED TO THE SAME RIGHTS
31 AS A PROPERTY OWNER PURSUANT TO CHAPTER 16, ARTICLE 5 OF THIS TITLE AND THE

1 CLASSIFICATION SHALL BE DETERMINED AS IF THE LAND AND GOVERNMENT PROPERTY
2 IMPROVEMENT WERE NOT OWNED BY A GOVERNMENT LESSOR.

3 Sec. 2. Section 42-6205, Arizona Revised Statutes, is amended to read:
4 42-6205. Disposition of revenue

5 A. The county treasurer shall separately account for payments received
6 under this article with respect to each government property improvement.

7 B. EXCEPT AS PROVIDED BY SUBSECTION C OF THIS SECTION, within thirty
8 days after receiving tax revenues under this article, the county treasurer
9 shall pay to the following taxing jurisdictions in which the government
10 property improvement is located the monies received with respect to the
11 improvement, allocating the revenue among the jurisdictions as follows:

12 1. The county, for deposit in its general fund, thirteen per cent.

13 2. The city or town, seven per cent. If the government property
14 improvement is located in an unincorporated area, the revenue that would
15 otherwise be allocated to a city or town shall be allocated to the other
16 jurisdictions identified in this ~~section~~ SUBSECTION in the same proportion
17 that the remaining revenues are allocated to them.

18 3. The community college district, seven per cent. If the government
19 property improvement is not located in a community college district, the
20 revenue that would otherwise be allocated to the district shall be allocated
21 to the other jurisdictions identified in this ~~section~~ SUBSECTION in the same
22 proportion that the remaining revenues are allocated to them.

23 4. The common school district, thirty-six and one-half per cent, the
24 high school district, thirty-six and one-half per cent, the common school
25 district not within a high school district, seventy-three per cent, or the
26 unified school district, seventy-three per cent. If the government property
27 improvement is not located in any school district, the revenue that would
28 otherwise be allocated under this paragraph shall be allocated to the other
29 jurisdictions identified in this ~~section~~ SUBSECTION in the same proportion
30 that the remaining revenues are allocated to them.

1 C. WITHIN THIRTY DAYS OF RECEIVING TAX REVENUES UNDER THIS ARTICLE
2 WHERE THE TAX RATE IS DETERMINED PURSUANT TO SECTION 42-6203, SUBSECTION H,
3 THE COUNTY TREASURER SHALL PAY TO THE FOLLOWING TAXING JURISDICTIONS IN WHICH
4 THE GOVERNMENT PROPERTY IMPROVEMENT IS LOCATED THE MONIES RECEIVED WITH
5 RESPECT TO THE IMPROVEMENT AS FOLLOWS:

6 1. ALLOCATING FORTY PER CENT OF THE REVENUE AMONG THE JURISDICTIONS AS
7 FOLLOWS:

8 (a) THE COUNTY, FOR DEPOSIT IN ITS GENERAL FUND, THIRTEEN PER CENT.

9 (b) THE CITY OR TOWN, SEVEN PER CENT. IF THE GOVERNMENT PROPERTY
10 IMPROVEMENT IS LOCATED IN AN UNINCORPORATED AREA, THE REVENUE THAT WOULD
11 OTHERWISE BE ALLOCATED TO A CITY OR TOWN SHALL BE ALLOCATED TO THE OTHER
12 JURISDICTIONS IDENTIFIED IN THIS SUBSECTION IN THE SAME PROPORTION THAT THE
13 REMAINING REVENUES ARE ALLOCATED TO THEM.

14 (c) THE COMMUNITY COLLEGE DISTRICT, SEVEN PER CENT. IF THE GOVERNMENT
15 PROPERTY IMPROVEMENT IS NOT LOCATED IN A COMMUNITY COLLEGE DISTRICT, THE
16 REVENUE THAT WOULD OTHERWISE BE ALLOCATED TO THE DISTRICT SHALL BE ALLOCATED
17 TO THE OTHER JURISDICTIONS IDENTIFIED IN THIS SUBSECTION IN THE SAME
18 PROPORTION THAT THE REMAINING REVENUES ARE ALLOCATED TO THEM.

19 (d) THE COMMON SCHOOL DISTRICT, THIRTY-SIX AND ONE-HALF PER CENT, THE
20 HIGH SCHOOL DISTRICT, THIRTY-SIX AND ONE-HALF PER CENT, THE COMMON SCHOOL
21 DISTRICT NOT WITHIN A HIGH SCHOOL DISTRICT, SEVENTY-THREE PER CENT, OR THE
22 UNIFIED SCHOOL DISTRICT, SEVENTY-THREE PER CENT. IF THE GOVERNMENT PROPERTY
23 IMPROVEMENT IS NOT LOCATED IN ANY SCHOOL DISTRICT, THE REVENUE THAT WOULD
24 OTHERWISE BE ALLOCATED UNDER THIS PARAGRAPH SHALL BE ALLOCATED TO THE OTHER
25 JURISDICTIONS IDENTIFIED IN THIS SUBSECTION IN THE SAME PROPORTION THAT THE
26 REMAINING REVENUES ARE ALLOCATED TO THEM.

27 2. ALLOCATING SIXTY PER CENT OF THE REVENUE TO THE CITY OR TOWN OF
28 WHICH EIGHTY PERCENT MUST BE USED FOR PUBLIC SAFETY SERVICES AND TWENTY PER
29 CENT MUST BE USED FOR SPONSORING ART PROGRAMS. IF THE GOVERNMENT PROPERTY
30 IMPROVEMENT IS LOCATED IN AN UNINCORPORATED AREA, THE REVENUE THAT WOULD
31 OTHERWISE BE ALLOCATED TO A CITY OR TOWN SHALL BE ALLOCATED TO THE OTHER

1 JURISDICTIONS IDENTIFIED IN THIS SUBSECTION IN THE SAME PROPORTION THAT THE
2 REMAINING REVENUES ARE ALLOCATED TO THEM.

3 D. THE MONIES DISTRIBUTED PURSUANT TO SUBSECTION C, PARAGRAPH 2 OF THIS
4 SECTION ARE IN ADDITION TO ANY OTHER APPROPRIATION, TRANSFER OR OTHER
5 ALLOCATION OF PUBLIC OR PRIVATE MONIES FROM ANY OTHER SOURCE AND SHALL NOT
6 SUPPLANT, REPLACE OR CAUSE A REDUCTION IN OTHER FUNDING SOURCES.

7 ~~E.~~ E. The county treasurer shall distribute all monies collected or
8 received under this article as delinquent or back taxes in the same manner
9 and proportions as required by ~~subsection~~ SUBSECTIONS B AND C OF THIS
10 SECTION, except that the county treasurer shall credit to the county general
11 fund any interest and penalties collected under this article with respect to
12 delinquent taxes.

13 Sec. 3. Section 42-6209, Arizona Revised Statutes, is amended to read:

14 42-6209. Abatement of tax for government property improvements
15 in single central business district

16 A. A city or town may abate the tax provided for under this article
17 for a limited period beginning when the certificate of occupancy is issued
18 and ending eight years after the certificate of occupancy is issued on a
19 government property improvement that is constructed either before or after
20 July 20, 1996 and that meets the following requirements:

21 1. The improvement is located in a single central business district in
22 the city or town and is subject to a lease or development agreement entered
23 into on or after April 1, 1985. For the purposes of this section:

24 (a) A city or town shall not designate more than one central business
25 district within its corporate boundaries.

26 (b) A city or town shall not approve or enter into a development
27 agreement or lease for a government property improvement within one year
28 after the designation of the central business district in which the
29 improvement is located.

1 (c) "Central business district" means a single and contiguous
2 geographical area designated by resolution of the governing body of the city
3 or town and meeting the following requirements:

4 (i) The central business district is located entirely within a slum or
5 blighted area that is established pursuant to title 36, chapter 12,
6 article 3.

7 (ii) The central business district is geographically compact and no
8 larger than the greater of five per cent of the total land area within the
9 exterior boundaries of the city or town or six hundred forty acres.

10 2. The government property improvement resulted or will result in an
11 increase in property value of at least one hundred per cent.

12 3. THE TAX RATE IS NOT DETERMINED BY SECTION 42-6203, SUBSECTION H.

13 B. The prime lessee shall notify the county treasurer and the
14 government lessor and apply for the abatement before the taxes under this
15 article are due and payable in the first year after the certificate of
16 occupancy is issued.

17 C. Except as provided by subsection D, each lease between a prime
18 lessee and a government lessor for which the tax is abated under this section
19 and that is entered into from and after May 31, 2010, and that does not meet
20 the conditions provided in section 42-6203, subsection A, must be approved by
21 a simple majority vote of the governing body without the use of a consent
22 calendar and shall not be approved unless:

23 1. The government lessor notifies the governing bodies of the county
24 and any city, town and school district in which the government property
25 improvement is located at least sixty days before the approval. The notice
26 must include the name and address of the intended prime lessee, the location
27 and proposed use of the government property improvement and the proposed term
28 of the lease or development agreement.

29 2. The government lessor determines that, within the term of the lease
30 or development agreement, the economic and fiscal benefit to this state and
31 the county, city or town in which the government property improvement is

1 located will exceed the benefits received by the prime lessee as a result of
2 the development agreement or lease on the basis of an estimate of those
3 benefits prepared by an independent third party in a manner and method
4 acceptable to the governing body of the government lessor. The estimate must
5 be provided to the government lessor and the governing bodies of the county
6 and any city, town and school district in which the government property
7 improvement is located at least thirty days before the vote of the governing
8 body. A lease or development agreement between a prime lessee and a
9 government lessor involving residential rental housing is exempt from the
10 economic estimate analysis requirements of this paragraph.

11 3. The lease or development agreement provides that the government
12 lessor may not approve an amendment to change the use of the government
13 property improvement during the period of abatement unless:

14 (a) The government lessor notifies the governing bodies of the county
15 and any city, town and school district in which the government property
16 improvement is located at least sixty days before the approval. The notice
17 must include the name and address of the prime lessee, the location and
18 proposed use of the government property improvement and the remaining term of
19 the lease or development agreement.

20 (b) The government lessor determines that, within the remaining term
21 of the lease or development agreement, the economic and fiscal benefit to
22 this state and the county, city or town in which the government property
23 improvement is located will exceed the benefits received by the prime lessee
24 as a result of the change in the lease or development agreement on the basis
25 of an estimate of those benefits prepared by an independent third party in a
26 manner and method acceptable to the governing body of the government
27 lessor. The estimate must be provided to the government lessor and the
28 governing bodies of the county and any city, town and school district in
29 which the government property improvement is located at least thirty days
30 before the vote of the governing body. A change in use under a lease or
31 development agreement between a prime lessee and a government lessor to

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1 residential rental housing is exempt from the economic estimate analysis
2 requirements of this subdivision.

3 D. Subsection C does not apply if:

4 1. The tax is not abated under this section.

5 2. The government lessor is acting as a commercial landlord without a
6 development agreement in a lease for a use ancillary to a government property
7 improvement used for a public purpose.”

8 Renumber to conform

9 Amend title to conform

3/11/14
10:26 AM
S: BR/lS