

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2088

(Reference to the Borrelli 7-page s/e amendment dated 2/13/15)

1 Page 7, between lines 8 and 9, insert:

2 "Sec. 2. Section 11-952, Arizona Revised Statutes, is amended to read:

3 11-952. Intergovernmental agreements and contracts

4 A. If authorized by their legislative or other governing bodies, two  
5 or more public agencies or public procurement units by direct contract or  
6 agreement may contract for services or jointly exercise any powers common to  
7 the contracting parties and may enter into agreements with one another for  
8 joint or cooperative action or may form a separate legal entity, including a  
9 nonprofit corporation, to contract for or perform some or all of the services  
10 specified in the contract or agreement or exercise those powers jointly held  
11 by the contracting parties.

12 B. Any such contract or agreement shall specify the following:

13 1. Its duration.

14 2. Its purpose or purposes.

15 3. The manner of financing the joint or cooperative undertaking and of  
16 establishing and maintaining a budget for the undertaking.

17 4. The permissible method or methods to be employed in accomplishing  
18 the partial or complete termination of the agreement and for disposing of  
19 property on such partial or complete termination.

20 5. If a separate legal entity is formed pursuant to subsection A, the  
21 precise organization, composition, title and nature of the entity.

22 6. Any other necessary and proper matters.

23 C. No agreement made pursuant to this article shall relieve any public  
24 agency of any obligation or responsibility imposed on it by law.

25 D. Except as provided in subsection E, every agreement or contract  
26 involving any public agency or public procurement unit of this state made  
27 pursuant to this article, before its execution, shall be submitted to the  
28 attorney for each such public agency or public procurement unit, who shall  
29 determine whether the agreement is in proper form and is within the powers  
30 and authority granted under the laws of this state to such public agency or  
31 public procurement unit.

1 E. A federal department or agency or public agency of another state  
2 that is a party to an agreement or contract made pursuant to this article is  
3 not required to submit the agreement or contract to the attorney for the  
4 department or agency unless required under federal law or the law of the  
5 other state.

6 F. Appropriate action by ordinance or resolution or otherwise pursuant  
7 to the laws applicable to the governing bodies of the participating agencies  
8 approving or extending the duration of the agreement or contract shall be  
9 necessary before any such agreement, contract or extension may be filed or  
10 become effective.

11 G. An agreement or contract may be extended as many times as is  
12 desirable, but each extension may not exceed the duration of the previous  
13 agreement.

14 H. Payment for services under this section shall not be made unless  
15 pursuant to a fully approved written contract.

16 I. A person who authorizes payment of any monies in violation of this  
17 section is liable for the monies paid plus twenty ~~per-cent~~ PERCENT of such  
18 amount and legal interest from the date of payment.

19 J. Notwithstanding any other provision of law, public agencies may  
20 enter into a contract or agreement pursuant to this section with the superior  
21 court, justice courts and ~~police~~ MUNICIPAL courts for related services and  
22 facilities of such courts for a term not to exceed ten years, with the  
23 approval of such contract or agreement by the presiding judge of the superior  
24 court in the county in which the court or courts that provide the facilities  
25 or services are located.

26 Sec. 3. Section 12-1578.01, Arizona Revised Statutes, is amended to  
27 read:

28 12-1578.01. Time for answer

29 The writ, whether issued in the superior court, the justice court or  
30 the ~~police~~ MUNICIPAL court, shall require the garnishee to answer within ten  
31 days after being served with the writ.

32 Sec. 4. Section 12-1598.06, Arizona Revised Statutes, is amended to  
33 read:

34 12-1598.06. Time for answer

35 The writ, whether issued in the superior court, the justice court or  
36 the ~~police~~ MUNICIPAL court, shall require the garnishee to answer within ten  
37 days from service of the writ.

1           Sec. 5. Section 22-375, Arizona Revised Statutes, is amended to read:  
2           22-375. Limitation of appeal from superior court in action  
3                     appealed from inferior court

4           A. An appeal may be taken by the defendant, this state or any of its  
5           political subdivisions from a final judgment of the superior court in an  
6           action appealed from a justice of the peace or ~~poli~~ice MUNICIPAL court, if the  
7           action involves the validity of a tax, impost, assessment, toll, municipal  
8           fine or statute.

9           B. Except as provided in this section, there shall be no appeal from  
10          the judgment of the superior court given in an action appealed from a justice  
11          of the peace or a ~~poli~~ice MUNICIPAL court.

12          Sec. 6. Section 36-2021, Arizona Revised Statutes, is amended to read:  
13          36-2021. Definitions

14          In this chapter, unless the context otherwise requires:

15          1. "Alcoholic" means a person who habitually lacks self-control with  
16          respect to the use of alcoholic beverages or who uses alcoholic beverages to  
17          the extent that his health is substantially impaired or endangered or his  
18          social or economic functions are substantially disrupted.

19          2. "Approved private treatment facility" means a private agency  
20          meeting the standards established by the division and approved pursuant to  
21          sections 36-2023 and 36-2029.

22          3. "Approved public treatment facility" means a treatment agency  
23          operating under the directions and control of a county, providing treatment  
24          through a contract with a county, meeting the standards established by the  
25          division and approved pursuant to sections 36-2023 and 36-2029.

26          4. "Chronic alcoholic" means an alcoholic who is incapacitated by  
27          alcohol and who during the preceding twelve months has been admitted to a  
28          local alcoholism reception center on ten or more occasions or has been  
29          admitted for three or more episodes of inpatient or residential alcoholism  
30          treatment.

31          5. "Court" means a court of record, a justice of the peace court, a  
32          ~~poli~~ice MUNICIPAL court or a city court authorized by charter.

33          6. "Department" means the department of health services.

34          7. "Deputy director" means the deputy director of the division of  
35          behavioral health in the department of health services.

36          8. "Director" means the director of the department of health services.

1           9. "Division" means the division of behavioral health in the  
2 department of health services.

3           10. "Evaluation" means multidisciplinary professional analysis of a  
4 person's medical, psychological, social, financial and legal conditions.  
5 Persons providing evaluation services shall be properly qualified  
6 professionals and may be full-time employees of an approved treatment  
7 facility providing evaluation services or may be part-time employees or may  
8 be employed on a contractual basis.

9           11. "Incapacitated by alcohol" means that a person as a result of the  
10 use of alcohol is unconscious or has his judgment otherwise so impaired that  
11 he is incapable of realizing and making a rational decision with respect to  
12 his need for evaluation and treatment, is unable to take care of his basic  
13 personal needs or safety such as food, clothing, shelter or medical care or  
14 lacks sufficient understanding or capacity to make or communicate rational  
15 decisions concerning himself.

16           12. "Intoxicated person" means a person whose mental or physical  
17 functioning is substantially impaired as a result of the immediate effects of  
18 alcohol in his system.

19           13. "Local alcoholism reception center" or "center" means an initial  
20 reception agency for a person who is intoxicated or who is incapacitated by  
21 alcohol to receive initial evaluation and processing for assignment for  
22 further evaluation or into a treatment program.

23           14. "Treatment" means the broad range of emergency, outpatient,  
24 intermediate and inpatient services and care, including diagnostic  
25 evaluation, medical, psychiatric, psychological and social service care,  
26 vocational rehabilitation and career counseling, which may be extended to  
27 alcoholics and intoxicated persons.

28           Sec. 7. Section 42-1122, Arizona Revised Statutes, is amended to read:

29           42-1122. Setoff for debts to state agencies, political  
30                           subdivisions and courts; revolving fund; definitions

31           A. The department shall establish a liability setoff program by which  
32 refunds under sections 42-1118 and 43-1072 may be used to satisfy debts that  
33 the taxpayer owes to this state, a political subdivision or a court. The  
34 program shall comply with the standards and requirements prescribed by this  
35 section.

36           B. If a taxpayer owes an agency, political subdivision or court a  
37 debt, the agency, political subdivision or court, by November 1 of each year,

1 may notify the department, furnishing at least the state agency, court or  
2 program identifier, the first name, last name, middle initial or middle name  
3 and suffix, social security number and any other available identification  
4 that the agency, political subdivision or court deems appropriate of the  
5 debtor as shown on the records of the agency, political subdivision or court,  
6 and the amount of the debt.

7 C. The department shall match the information submitted by the agency,  
8 political subdivision or court by at least two items of identification of the  
9 taxpayer with taxpayers who qualify for refunds under section 42-1118 and:

10 1. Notify the agency, political subdivision or court of a potential  
11 match, the taxpayer's home address and any additional taxpayer identification  
12 numbers used by the taxpayer. Even if the taxpayer is not entitled to a  
13 refund, the department of revenue shall provide to:

14 (a) The court, the clerk of the court and the department of economic  
15 security, for child support and spousal maintenance purposes only, the home  
16 address of a taxpayer whose debt for overdue support is referred for setoff  
17 and any additional taxpayer identification numbers used by the taxpayer.

18 (b) The court, the home address and any additional taxpayer  
19 identification numbers used by the taxpayer whose debt for a court obligation  
20 is referred for setoff and who is identified by the court as a probationer on  
21 absconder status.

22 2. Request final agency, political subdivision or court confirmation  
23 in writing or electronically as determined by the department within ten days  
24 of the match and of the continuation of the debt. If the agency, political  
25 subdivision or court fails to provide confirmation within forty-five days  
26 after the request, the department shall release the refund to the taxpayer.

27 D. An agency, political subdivision or court may submit updated  
28 information, additions, deletions and other changes on a quarterly or more  
29 frequent basis, at the convenience of the agency, political subdivision or  
30 court.

31 E. On confirmation pursuant to subsection C, paragraph 2 of this  
32 section, the agency or political subdivision shall notify the taxpayer, by  
33 mail to the most recent address provided by the taxpayer to the department:

34 1. Of the intention to set off the debt against the refund due.

35 2. Of the taxpayer's right to appeal to the appropriate court, or to  
36 request a review by the agency or political subdivision pursuant to agency or  
37 political subdivision rule, within thirty days of the mailing of the notice.

1           F. In addition the taxpayer shall receive notice that if the refund is  
2 intercepted in error through no fault of the taxpayer, the taxpayer is  
3 entitled to the full refund plus interest and penalties from the agency,  
4 political subdivision or court as provided by subsection 0 of this section.

5           G. The basis for a request for review as provided by subsection E of  
6 this section shall not include the validity of the claim if its validity has  
7 been established at an agency hearing, by judicial review in a court of  
8 competent jurisdiction in this or any other state or by final administrative  
9 decision and shall state with specificity why the taxpayer claims the  
10 obligation does not exist or why the amount of the obligation is incorrect.

11           H. If, within thirty days of the mailing of the notice, the taxpayer  
12 requests a review by the agency or political subdivision or provides the  
13 agency or political subdivision with proof that an appeal has been taken to  
14 the appropriate court, the agency or political subdivision shall immediately  
15 notify the department and the setoff procedure shall be stayed pending  
16 resolution of the review or appeal.

17           I. If the department does not receive notice of a timely appeal, it  
18 shall draw and deliver a warrant in the amount of the available refund up to  
19 the amount of the debt in favor of the agency or political subdivision and  
20 notify the taxpayer of the action by mail.

21           J. Subsections E, G, H and I of this section do not apply to a debt  
22 imposed by a court except that the taxpayer shall receive notice of the  
23 intent to set off the debt against the refund due and the right to appeal to  
24 the court that imposed the debt within thirty days of the mailing of the  
25 notice. The basis for the request for review shall not include the validity  
26 of the claim and shall state with specificity why the taxpayer claims the  
27 obligation does not exist or why the obligation is incorrect.

28           K. If the setoff accounts for only a portion of the refund due, the  
29 remainder of the refund shall be sent to the taxpayer. A court shall not use  
30 this section to satisfy a judgment or payment of a fine or civil penalty  
31 until the judgment has become final or until the time to appeal the  
32 imposition of a fine or civil penalty has expired.

33           L. A revolving fund is established to recover and pay the cost of  
34 operating the setoff program under this section. The department may  
35 prescribe a fee to be collected from each agency, political subdivision or  
36 court utilizing the setoff procedure or from the taxpayer, and the amount  
37 shall be deposited in the fund. The amount of the fee shall reasonably

1 reflect the actual cost of the service provided. Monies in the revolving  
2 fund are subject to legislative appropriation.

3 M. If agencies, political subdivisions or courts have two or more  
4 delinquent accounts for the same taxpayer, the refund may be apportioned  
5 among them pursuant to rules prescribed by the department of revenue, except  
6 that a setoff to the department of economic security for overdue support has  
7 priority over all other setoffs.

8 N. If the refund is insufficient to satisfy the entire debt, the  
9 remainder of the debt may be collected by the agency, political subdivision  
10 or court as provided by law or resubmitted for setoff against subsequent  
11 refunds.

12 O. In the case of a refund that is intercepted in error through no  
13 fault of the taxpayer under this section, the taxpayer shall be reimbursed by  
14 the agency, political subdivision or court with interest pursuant to section  
15 42-1123. In addition, if all or part of a refund is intercepted in error due  
16 to an agency, political subdivision or court incorrectly identifying a  
17 taxpayer as a debtor through no fault of the taxpayer, the agency, political  
18 subdivision or court shall also pay the taxpayer a penalty as follows:

19 1. If the agency, political subdivision or court reimburses the  
20 taxpayer sixteen through one hundred eighty days after the agency, political  
21 subdivision or court receives notification that the refund was erroneously  
22 intercepted and the refund was received by the agency, political subdivision  
23 or court, the penalty is equal to ten ~~per-cent~~ PERCENT of the amount of the  
24 refund that was intercepted.

25 2. If the agency, political subdivision or court reimburses the  
26 taxpayer one hundred eighty-one through three hundred sixty-five days after  
27 the agency, political subdivision or court receives notification that the  
28 refund was erroneously intercepted and the refund was received by the agency,  
29 political subdivision or court, the penalty is equal to fifteen ~~per-cent~~  
30 PERCENT of the amount of the refund that was intercepted.

31 3. If the agency, political subdivision or court fails to reimburse  
32 the taxpayer within three hundred sixty-five days after the agency, political  
33 subdivision or court receives notification that the refund was erroneously  
34 intercepted and the refund was received by the agency, political subdivision  
35 or court, the penalty is equal to twenty ~~per-cent~~ PERCENT of the amount of  
36 the refund that was intercepted.

1 P. The time periods set forth in subsection 0 of this section shall be  
2 stayed during a review of an agency decision pursuant to section 25-522.

3 Q. Except as is reasonably necessary to accomplish the purposes of  
4 this section, the department shall not disclose under this section any  
5 information in violation of chapter 2, article 1 of this title.

6 R. An agency, political subdivision or court shall not enter into an  
7 agreement with a debtor for:

8 1. The assignment of any prospective refund to the agency, political  
9 subdivision or court in satisfaction of the debt.

10 2. Payment of the debt if the debt has been confirmed to the  
11 department for setoff under subsection C, paragraph 2 of this section.

12 S. If a tax refund is based on a joint income tax return and the  
13 department of economic security receives a written claim from the  
14 nonobligated spouse within forty-five days after the notice of a setoff for  
15 overdue child support, the setoff only applies to that portion of the refund  
16 due to the obligor. The nonobligated spouse shall provide to the department  
17 of economic security copies of both the obligated and nonobligated spouse's  
18 federal W-2 forms and evidence of estimated tax payments supporting the  
19 proportionate share of each spouse's payment of tax. The department of  
20 economic security shall retain the amount of the set off refund due to the  
21 obligated spouse determined by a proration based on the tax payments of each  
22 spouse by estimated tax payment or tax withheld from wages.

23 T. For the purposes of this section:

24 1. "Agency" means a department, agency, board, commission or  
25 institution of this state. Agency also means a corporation that is under  
26 contract with this state and that provides a service that would otherwise be  
27 provided by a department, agency, board, commission or institution of this  
28 state, if the contract specifically authorizes participation in the liability  
29 setoff program and the attorney general's office has reviewed the contract  
30 and approves such authorization. The participation in the liability setoff  
31 program shall be limited to debt related to the services the corporation  
32 provides for or on behalf of this state.

33 2. "Court" means all courts of record, justice courts, ~~AND~~ municipal  
34 courts ~~and police courts~~.

35 3. "Debt" means an amount over fifty dollars owed to an agency,  
36 political subdivision or court by a taxpayer and may include a judgment in  
37 favor of this state or a political subdivision of this state, interest,



1 penalties, charges, costs, fees, fines, civil penalties, surcharges,  
2 assessments, administrative charges or any other amount. Debt also includes  
3 monies owed by a taxpayer for overdue support and referred to the department  
4 of economic security or the clerk of the court for collection.

5 4. "Overdue support" means a delinquency in court ordered payments for  
6 spousal maintenance or support of a child or for spousal maintenance to the  
7 parent with whom the child is living if child support is also being enforced  
8 pursuant to an assignment or application filed under 42 United States Code  
9 section 654(6) or other applicable law.

10 5. "Political subdivision" means a county or an incorporated city or  
11 town in this state."

12 Amend title to conform

SONNY BORRELLI

2088sb  
02/17/2015  
10:27 AM  
C: sp