

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 217
SENATE BILL 1191

AN ACT

AMENDING SECTIONS 45-2101 AND 45-2113, ARIZONA REVISED STATUTES; RELATING TO
THE ARIZONA WATER PROTECTION FUND.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-2101, Arizona Revised Statutes, is amended to
3 read:

4 45-2101. Declaration of policy

5 A. It is the declared policy of the legislature to provide for a
6 coordinated effort for the restoration and conservation of the water
7 resources of this state. This policy is designed to allow the people of this
8 state to prosper while protecting and restoring this state's rivers and
9 streams and associated riparian habitats, including fish and wildlife
10 resources that are dependent on these important habitats. In support of this
11 policy, financial resources shall be made available by this state to the
12 appropriate public and private entities to assist in water resource
13 management activities that protect this state's rivers and streams and
14 associated riparian habitats.

15 B. The primary purpose of this chapter is to establish the Arizona
16 water protection fund commission and the Arizona water protection fund that
17 shall provide an annual source of ~~funds~~ MONIES for the development and
18 implementation of measures to protect water of sufficient quality and
19 quantity to maintain, enhance and restore rivers and streams and associated
20 riparian habitats, including fish and wildlife resources that are dependent
21 on these important habitats consistent with existing water law and water
22 rights, AND MEASURES TO INCREASE WATER AVAILABILITY. The commission may also
23 provide funding to develop and protect riparian habitats in conjunction with
24 a man-made water resource project, if the man-made water resource water
25 project directly or indirectly benefits a river or stream and includes or
26 creates a riparian habitat. This funding shall occur primarily through the
27 grant of monies from the Arizona water protection fund by the commission to
28 entities that cooperate and work in conjunction with local residents and
29 affected jurisdictions.

30 C. This declaration of policy and the use of the words "restore",
31 "restoring" and "restoration" in this chapter ~~shall~~ DOES not imply an intent
32 to prescribe the removal of dams, levees or other man-made structures.

33 D. ~~Nothing in~~ This chapter ~~shall~~ DOES NOT limit or restrict the
34 authority or opportunities of state or local governments or other political
35 subdivisions to plan, develop or implement projects consistent with this
36 chapter.

37 Sec. 2. Section 45-2113, Arizona Revised Statutes, is amended to read:

38 45-2113. Fund grants; applications

39 A. The commission shall grant monies from the fund consistent with the
40 application guidelines developed pursuant to section 45-2105. The commission
41 shall establish a procedure by which monies may be granted annually which
42 shall include a maximum of six months between the receipt of the proposal by
43 the commission and the disbursement of monies. The commission shall give
44 priority in funding to the following:

45 1. Projects for which matching monies or assets of comparable value,
46 including in-kind contributions, will be provided by other sources.

1 2. Projects that provide for the continued maintenance of the portion
2 of the river and stream and associated riparian habitat that are enhanced by
3 the project.

4 3. Projects that include broad based local involvement.

5 4. Projects that directly benefit perennial or intermittent rivers or
6 streams **OR THAT OTHERWISE INCREASE THE SUPPLY OF WATER.**

7 B. The commission shall require as a condition of approval of any
8 proposal all of the following provisions:

9 1. Allowing access for inspection and evaluation of the project.

10 2. Controlling the expenditure of and accounting for any monies
11 granted by the commission

12 3. Requiring that those persons responsible for the project submit all
13 pertinent information and research gained from the project to the commission.

14 4. Requiring that any person receiving a grant spend no more than five
15 ~~per cent~~ **PERCENT** of the grant on costs of administration.

16 C. The commission shall provide for public involvement regarding the
17 applications submitted to the commission which shall include notice to any
18 person who requests notice of applications and which shall provide a
19 reasonable opportunity for comment on the application which shall not be less
20 than forty-five days.

21 D. On receipt of an application the commission shall notify cities,
22 towns, counties, natural resource conservation districts, special districts
23 and Indian communities affected by the proposal and shall provide a
24 reasonable opportunity for comment on the application which shall not be less
25 than forty-five days.

26 E. Any person, state agency or political subdivision of this state may
27 submit a request for funding from the fund for purposes prescribed by this
28 section. A federal agency is not eligible for funding from the fund.
29 Requests for funding shall be made to the commission. Requests for funding
30 submitted to the commission may be accompanied by expressions of support from
31 affected cities, towns, counties, natural resource conservation districts,
32 special districts or Indian communities.

33 F. As a condition of approval by the commission, the applicant shall
34 commit to work jointly with the affected cities, towns, counties, natural
35 resource conservation districts, special districts and Indian communities
36 that have contacted the commission pursuant to subsection D of this section
37 on all aspects of the proposal's implementation and monitoring, unless the
38 jurisdiction chooses not to participate.

39 G. Monies in the fund may only be spent to finance programs located in
40 this state.

41 H. Monies in the fund may be spent for any of the following:

42 1. Granting monies to entities for the acquisition of central Arizona
43 project water or effluent that will protect or restore rivers or streams
44 consistent with state water law. No entity may exercise the right of eminent
45 domain to acquire water or water rights using monies derived from this fund.

1 2. Granting monies to assist in developing, promoting and implementing
2 water conservation programs, directly related to the purposes of this
3 chapter, outside of the active management areas, ~~except that no more than~~
4 ~~five per cent of the monies spent in any fiscal year may be spent for this~~
5 ~~purpose.~~

6 3. Granting monies in support of research and data collection,
7 compilation and analysis directly related to the purposes of this chapter
8 except that no more than five ~~per cent~~ PERCENT of the monies deposited in the
9 fund in any fiscal year may be spent for this purpose. Before the approval
10 of any such project, the commission shall consult with the department of
11 water resources and the state land department to determine whether any
12 research of a similar nature has been or is in the process of being performed
13 and is already available. The commission shall not approve a proposal if
14 either department determines that sufficient data exists and notifies the
15 commission in writing.

16 4. Granting monies for the development and implementation of capital
17 projects or specific measures consistent with the purposes of this chapter.

18 I. Monies in the fund may not be spent for:

19 1. Any project that includes the planting of mesquite, tamarisk or
20 other nonnative high water usage trees that consume water to a degree that is
21 detrimental to water conservation efforts, but may be used for removal of
22 mesquite, tamarisk or other nonnative high water usage trees that consume
23 water to a degree that is detrimental to water conservation efforts.

24 2. Any remedial action purposes undertaken pursuant to the
25 comprehensive environmental response, compensation, and liability act of
26 1980, as amended (P.L. 96-510; 94 Stat. 2767; 42 United States Code section
27 9601) or title 49, chapter 2, article 5.

APPROVED BY THE GOVERNOR MAY 12, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 12, 2016.