

Conference Engrossed

State of Arizona  
Senate  
Forty-sixth Legislature  
First Regular Session  
2003

CHAPTER 252

# **SENATE BILL 1071**

AN ACT

AMENDING SECTION 41-511.23, ARIZONA REVISED STATUTES; RELATING TO LAND  
CONSERVATION FUND GRANTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-511.23, Arizona Revised Statutes, is amended to  
3 read:

4 41-511.23. Conservation acquisition board; land conservation  
5 fund; conservation donation and public  
6 conservation accounts; livestock and crop  
7 conservation fund

8 A. The conservation acquisition board is established, as an advisory  
9 body to the Arizona state parks board, consisting of the following members  
10 who are appointed by the governor, at least one of whom shall be experienced  
11 in soliciting money from private sources:

12 1. One state land lessee.

13 2. One member who is qualified by experience in managing large  
14 holdings of private land for income production or conservation purposes.

15 3. One member of the state bar of Arizona who is experienced in the  
16 practice of private real estate law.

17 4. One real estate appraiser who is licensed or certified under title  
18 32, chapter 36.

19 5. One member who is qualified by experience in marketing real estate.

20 6. One representative of a conservation organization.

21 7. One representative of a state public educational institution.

22 B. The governor shall designate a presiding member of the board. The  
23 term of office is five years except that initial members shall assign  
24 themselves by lot to terms of one, two, three, two members for four and two  
25 members for five years in office.

26 C. The conservation acquisition board shall:

27 1. Solicit donations to the conservation donation account.

28 2. Consult with entities such as private land trusts, state land  
29 lessees, the state land department, the Arizona state parks board and others  
30 to identify conservation areas that are reclassified pursuant to section  
31 37-312 and that are suitable for funding.

32 3. Recommend to the Arizona state parks board appropriate grants from  
33 the land conservation fund.

34 D. The land conservation fund is established consisting of the  
35 following accounts:

36 1. The conservation donation account consisting of monies received as  
37 donations. Donations to the account are subject to any lawful conditions the  
38 donor may prescribe, including any conditions on the use of the money or  
39 reversion to the donor. Monies in the account are exempt from the provisions  
40 of section 35-190 relating to lapsing of appropriations.

41 2. The public conservation account consisting of monies appropriated  
42 to the account from the state general fund and monies from any other  
43 designated source. In fiscal years 2000-2001 through 2010-2011, the sum of  
44 twenty million dollars is appropriated each fiscal year from the state  
45 general fund to the public conservation account in the land conservation fund  
46 for the purposes of this section. Monies in the account are appropriated for

1 the purposes of this section, and the Arizona state parks board may spend  
2 monies in the account without further legislative authorization. Each  
3 expenditure of monies from the public conservation account for purposes  
4 listed under subsection G, paragraph ~~1~~ 2 of this section shall be matched by  
5 an equal expenditure of monies from the conservation donation account or from  
6 other private or governmental sources.

7 E. If the legislature fails to appropriate monies to the public  
8 conservation account in a fiscal year, and if there are no other monies in  
9 the public conservation account, the Arizona state parks board may either  
10 grant nothing from the fund in that year or, on recommendation by the  
11 conservation acquisition board, may grant available monies in the  
12 conservation donation account for purposes authorized in subsection G of this  
13 section.

14 F. The monies in the fund are exempt from the provisions of section  
15 35-190 relating to lapsing of appropriations.

16 G. Monies in the public conservation account, with matching monies  
17 from the conservation donation account, are appropriated AS FOLLOWS:

18 1. A TOTAL OF TWO MILLION DOLLARS EACH FISCAL YEAR TO THE LIVESTOCK  
19 AND CROP CONSERVATION FUND. THE FUND IS ESTABLISHED FOR THE PURPOSES OF THIS  
20 PARAGRAPH. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE ARIZONA  
21 DEPARTMENT OF AGRICULTURE FOR THE EXCLUSIVE PURPOSE OF GRANTING MONIES TO  
22 INDIVIDUAL LANDOWNERS AND GRAZING AND AGRICULTURAL LESSEES OF STATE OR  
23 FEDERAL LAND WHO CONTRACT WITH THE ARIZONA DEPARTMENT OF AGRICULTURE TO  
24 IMPLEMENT CONSERVATION BASED MANAGEMENT ALTERNATIVES USING LIVESTOCK OR CROP  
25 PRODUCTION PRACTICES, OR REDUCE LIVESTOCK OR CROP PRODUCTION, TO PROVIDE  
26 WILDLIFE HABITAT OR OTHER PUBLIC BENEFITS THAT PRESERVE OPEN SPACE AND FOR  
27 ADMINISTRATIVE EXPENSES AS PROVIDED BY THIS PARAGRAPH. THE DEPARTMENT SHALL  
28 ADMINISTER THE FUND. ON NOTICE FROM THE DIRECTOR OF THE DEPARTMENT, THE  
29 STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY  
30 SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE  
31 FUND. MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190  
32 RELATING TO LAPSING OF APPROPRIATIONS. FOR THE PURPOSES OF GRANTING MONIES  
33 FROM THE FUND PURSUANT TO THIS PARAGRAPH, THE DEPARTMENT:

34 (a) SHALL DEVELOP GUIDELINES AND CRITERIA FOR IMPLEMENTATION OF THIS  
35 PROGRAM THAT SHALL INCLUDE REQUIRING AS PART OF THE APPLICATION A LETTER  
36 DESCRIBING THE INTENDED USE FOR THE GRANT MONEY.

37 (b) SHALL GIVE PRIORITY TO LESSEES OF STATE OR FEDERAL LAND WHO REDUCE  
38 LIVESTOCK PRODUCTION TO PROVIDE PUBLIC BENEFITS SUCH AS WILDLIFE SPECIES  
39 CONSERVATION OR WILDLIFE HABITAT.

40 (c) SHALL NOT GRANT MORE THAN FIFTY PER CENT OF THE MONIES IN THE FUND  
41 WITH RESPECT TO LAND IN ONE COUNTY IN ANY FISCAL YEAR.

42 (d) IS EXEMPT FROM CHAPTER 6 OF THIS TITLE WITH RESPECT TO ADOPTING  
43 RULES, EXCEPT THAT THE DEPARTMENT SHALL PROVIDE FOR PUBLIC NOTICE AND SIXTY  
44 DAYS FOR PUBLIC COMMENT ON THE ANNUAL GRANT GUIDELINES AND CRITERIA,  
45 INCLUDING PUBLIC HEARINGS.

1 (e) SHALL AWARD ALL GRANTS PURSUANT TO CHAPTER 24, ARTICLE 1 OF THIS  
2 TITLE.

3 (f) SHALL REQUIRE EACH GRANTEE TO SUBMIT TO THE DEPARTMENT, WITHIN  
4 TWELVE MONTHS AFTER RECEIVING THE GRANT, A WRITTEN REPORT DETAILING HOW GRANT  
5 MONIES WERE USED TO ACHIEVE THE PROJECT DESCRIBED IN THE LETTER SUBMITTED AS  
6 PART OF THE APPLICATION. IF THE PROJECT IS LONGER THAN ONE YEAR, A WRITTEN  
7 REPORT SHALL BE SUBMITTED TO THE DEPARTMENT ON AN ANNUAL BASIS UNTIL THE  
8 PROJECT IS COMPLETE.

9 (g) MAY USE NOT MORE THAN FIVE PER CENT OF THE MONIES APPROPRIATED TO  
10 THE FUND IN ANY FISCAL YEAR FOR THE PURPOSES OF ADMINISTERING THE PROGRAM.

11 (h) SHALL PREPARE A REPORT OF THE DISPOSITION OF MONIES APPROPRIATED  
12 TO THE FUND EACH FISCAL YEAR AND PROVIDE A COPY OF THE REPORT TO THE  
13 GOVERNOR, TO THE ARIZONA STATE PARKS BOARD AND TO ANY PERSON WHO REQUESTS A  
14 COPY.

15 2. THE REMAINDER OF THE MONIES to the Arizona state parks board for  
16 the exclusive purpose of granting monies+

17 ~~+~~ to the state or any of its political subdivisions, or to a  
18 nonprofit organization that is exempt from federal income taxation under  
19 section 501(c) of the internal revenue code and that has the purpose of  
20 preserving open space, for the following purposes only:

21 (a) To purchase or lease state trust lands that are classified as  
22 suitable for conservation purposes pursuant to title 37, chapter 2, article  
23 4.2. A grant of money under this subdivision to a nonprofit organization is  
24 conditioned on the organization providing reasonable public access to any  
25 land that is wholly or partly purchased with that money. The organization  
26 shall agree with the Arizona state parks board that it will impose a  
27 restrictive covenant, running with the title to the land, granting such  
28 access and providing for reversion to this state of any interest in the  
29 property acquired with money granted under this subdivision on the failure to  
30 comply with the terms of the covenant. The Arizona state parks board and the  
31 state land commissioner have standing to either enforce the covenant or  
32 recover the amount of the grant from the current owner, with interest from  
33 the date the grant was awarded to the nonprofit organization.

34 (b) To purchase the development rights of state trust lands throughout  
35 this state under the following conditions:

36 (i) The development rights shall be sold at public auction as provided  
37 in section 37-258.01.

38 (ii) The lessee of the state trust land at the time the development  
39 rights are purchased shall be notified of the purchase in writing.

1 (iii) The purchase of the development rights shall not result in  
2 cancellation or modification of the current lease.

3 (iv) The purchase of the development rights shall not affect the  
4 existing lessee's current economic use of the land and rights pursuant to  
5 title 37, chapter 2, article 4.2.

6 (v) As a condition of the sale of the development rights, the  
7 purchaser shall agree in perpetuity not to exercise the development rights  
8 and that the land shall remain as open space.

9 (vi) The state trust land shall retain any other rights and attributes  
10 as prescribed by law at the time of the purchase.

11 ~~2. To an individual landowner or grazing or agricultural lessee of~~  
12 ~~state or federal land who contracts with the Arizona state parks board to~~  
13 ~~implement conservation based management alternatives using livestock or crop~~  
14 ~~production practices, or reduce livestock or crop production, to provide~~  
15 ~~wildlife habitat or other public benefits that preserve open space. The~~  
16 ~~conservation acquisition board shall give priority under this paragraph to~~  
17 ~~lessees of state or federal land who are required to reduce livestock~~  
18 ~~production to provide public benefits, such as wildlife species conservation~~  
19 ~~or wildlife habitat.~~

20 H. FOR THE PURPOSES OF SUBSECTION G, PARAGRAPH 2 OF THIS SECTION:

21 1. The Arizona state parks board shall not grant more than:

22 ~~1. Ten per cent of the monies in the public conservation account for~~  
23 ~~purposes of subsection G, paragraph 2 of this section in any fiscal year.~~

24 ~~2. fifty per cent of the monies under subsection G of this section~~  
25 with respect to land in one county in any fiscal year.

26 ~~I. 2.~~ 2. A grant of money ~~under subsection G of this section~~ is valid  
27 for eighteen months and may be extended one time for twelve additional months  
28 if a required public auction has not been held.

29 ~~J. 3.~~ 3. The Arizona state parks board may adopt rules to establish  
30 qualifications of nonprofit organizations for purposes of applying for and  
31 receiving money granted ~~for purposes of subsection G of this section.~~

32 ~~K. 4.~~ 4. The owner of property that is wholly or partly acquired with  
33 money granted ~~under subsection G, paragraph 1 of this section~~ shall not  
34 restrict or unreasonably limit access to private lands. Any sale of land  
35 with money granted ~~under subsection G of this section~~ shall include a  
36 condition requiring that permanent access to private lands be allowed.

37 ~~L. I.~~ I. The Arizona state parks board shall administer the land  
38 conservation fund. On notice from the board, the state treasurer shall  
39 invest and divest monies in either account in the fund as provided by section  
40 35-313, and monies earned from investments shall be credited to a separate  
41 administration account to pay the BOARD'S expenses of administering the land  
42 conservation and acquisition program under SUBSECTION G, PARAGRAPH 2 OF this  
43 section, which shall not exceed five per cent of the amount deposited in the  
44 public conservation account in any fiscal year or five hundred thousand  
45 dollars, whichever is less. Any unobligated amount remaining in the

1 administration account at the end of the fiscal year shall be credited to the  
2 public conservation account for purposes of subsection D of this section.  
3 ~~M.~~ J. Members of the conservation acquisition board may be reimbursed  
4 for travel and lodging expenses and per diem subsistence allowances incurred  
5 while on public business for the board. Reimbursement amounts shall not  
6 exceed those allowed under title 38, chapter 4, article 2.

APPROVED BY THE GOVERNOR MAY 26, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 27, 2003.