

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

CHAPTER 247
SENATE BILL 1288

AN ACT

AMENDING SECTIONS 45-2103 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 45-2103, Arizona Revised Statutes, is amended to
3 read:

4 45-2103. Arizona water protection fund commission

5 A. The Arizona water protection fund commission is established and
6 consists of two ex officio members, TWO ADVISORY MEMBERS and ~~fifteen~~ NINE
7 appointed members who are residents of this state, who have demonstrated an
8 interest in natural resources and who are appointed as follows:

9 1. One person ~~representing~~ WHO REPRESENTS a multi-county water
10 conservation district established pursuant to title 48, chapter 22 and named
11 by that district's governing board.

12 ~~2. Three persons representing municipalities that have entered into~~
13 ~~subcontracts for central Arizona project water. One person shall be from a~~
14 ~~county with a population of less than five hundred thousand persons according~~
15 ~~to the most recent United States decennial census and appointed by the~~
16 ~~speaker of the house of representatives, one person shall be from a county~~
17 ~~with a population of five hundred thousand or more persons but less than one~~
18 ~~million two hundred thousand persons according to the most recent United~~
19 ~~States decennial census and appointed by the president of the senate and one~~
20 ~~person shall be from a county with a population of one million two hundred~~
21 ~~thousand or more persons according to the most recent United States decennial~~
22 ~~census~~ ONE PERSON WHO REPRESENTS A STATE ASSOCIATION OF NATURAL RESOURCE
23 CONSERVATION DISTRICTS and WHO IS appointed by the governor.

24 ~~3. One person representing agriculture and appointed by the speaker of~~
25 ~~the house of representatives.~~

26 ~~4. 3. One person representing~~ FOUR PERSONS WHO REPRESENT natural
27 resource conservation districts established pursuant to title 37, chapter 6,
28 ~~and appointed by the governor~~ AND WHO REPRESENT GEOGRAPHICALLY DIVERSE AREAS
29 OF THIS STATE, TWO OF WHOM SHALL BE APPOINTED BY THE PRESIDENT OF THE SENATE
30 AND TWO OF WHOM ARE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

31 ~~5. 4. Four members~~ ONE MEMBER of the public with WHO HAS at least a
32 bachelor's degree in ~~biology, botany, ecology, geology, geography,~~ hydrology,
33 ~~resource economics or zoology and who have significant work related~~
34 ~~experience in the area of water resources management and conservation or~~
35 ~~natural resources management and conservation. One person shall be appointed~~
36 ~~by the speaker of the house of representatives, two persons shall be~~
37 ~~appointed by the president of the senate~~ WHO REPRESENTS A CITY THAT IS SERVED
38 BY THE CENTRAL ARIZONA PROJECT and ~~one person shall be~~ WHO IS appointed by
39 the governor. ~~At least one of the members shall be from a county with a~~
40 ~~population of less than five hundred thousand persons according to the most~~
41 ~~recent United States decennial census.~~

42 ~~6. 5. Two persons~~ ONE PERSON who are IS knowledgeable IN NATURAL
43 RESOURCE CONSERVATION ISSUES OR in water resource issues related to riparian
44 ecosystems, who ~~have been recommended by at least one environmental~~
45 ~~organization that is incorporated under the laws of this state or that for~~
46 ~~federal tax purposes files under section 501(c)(3) of the internal revenue~~

1 ~~code and whose purpose includes the protection, conservation or restoration~~
2 ~~of this state's rivers and streams and associated riparian habitats,~~
3 ~~including fish and wildlife resources that are dependent on these habitats,~~
4 REPRESENTS AN AGRICULTURAL IMPROVEMENT DISTRICT ESTABLISHED PURSUANT TO TITLE
5 48, CHAPTER 17 and who ~~are~~ IS appointed by the governor.

6 ~~7. One person representing an agricultural improvement district~~
7 ~~established pursuant to title 48, chapter 17, who has at least a bachelor's~~
8 ~~degree in biology, botany, ecology, geology, geography, hydrology, resource~~
9 ~~economics or zoology, who has significant work related experience in the area~~
10 ~~of natural resources conservation and who is appointed by the governor.~~

11 ~~8.~~ 6. One person ~~representing~~ WHO REPRESENTS an Indian tribe AND WHO
12 IS appointed by the chairman of the intertribal council of Arizona.

13 ~~9. One person representing an industrial water user who has entered~~
14 ~~into a subcontract for central Arizona project water appointed by the~~
15 ~~governor.~~

16 ~~10.~~ 7. As nonvoting ex officio members, the director of the department
17 of water resources and the state land commissioner.

18 8. AS NONVOTING ADVISORY MEMBERS, ONE MEMBER OF THE HOUSE OF
19 REPRESENTATIVES WHO IS APPOINTED BY THE SPEAKER OF THE HOUSE OF
20 REPRESENTATIVES AND ONE MEMBER OF THE SENATE WHO IS APPOINTED BY THE
21 PRESIDENT OF THE SENATE. ADVISORY MEMBERS MAY NOT BE CONSIDERED FOR PURPOSES
22 OF ESTABLISHING A QUORUM.

23 B. Members of the commission appointed pursuant to subsection A,
24 paragraphs 1 through ~~9~~ 6 of this section shall be appointed for staggered
25 terms of three years. A member may serve more than one term and may continue
26 to serve beyond the expiration of the term until a successor is appointed and
27 assumes office.

28 C. On request, members who are not ex officio members of the
29 commission are eligible to receive compensation pursuant to section 38-611,
30 not to exceed three thousand dollars in any calendar year, and are eligible
31 for reimbursement for expenses pursuant to title 38, chapter 4, article 2.

32 D. Members of the commission are immune from liability for any action
33 necessary to carry out the purposes of this chapter.

34 Sec. 2. Section 45-2113, Arizona Revised Statutes, is amended to read:
35 45-2113. Fund grants; applications

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

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

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

- 1 3. Projects that include broad based local involvement.
- 2 4. Projects that directly benefit perennial or intermittent rivers or
- 3 streams.
- 4 B. The commission shall require as a condition of approval of any
- 5 proposal all of the following provisions:
- 6 1. Allowing access for inspection and evaluation of the project.
- 7 2. Controlling the expenditure of and accounting for any monies
- 8 granted by the commission.
- 9 3. Requiring that those persons responsible for the project submit all
- 10 pertinent information and research gained from the project to the commission.
- 11 4. Requiring that any person receiving a grant spend no more than five
- 12 per cent of the grant on costs of administration.
- 13 C. The commission shall provide for public involvement regarding the
- 14 applications submitted to the commission which shall include notice to any
- 15 person who requests notice of applications and which shall provide a
- 16 reasonable opportunity for comment on the application which shall not be less
- 17 than forty-five days.
- 18 D. On receipt of an application the commission shall notify cities,
- 19 towns, counties, natural resource conservation districts, special districts
- 20 and Indian communities affected by the proposal and shall provide a
- 21 reasonable opportunity for comment on the application which shall not be less
- 22 than forty-five days.
- 23 E. Any person, state ~~or federal~~ agency or political subdivision of
- 24 this state may submit a request for funding from the fund for purposes
- 25 prescribed by this section. **A FEDERAL AGENCY IS NOT ELIGIBLE FOR FUNDING**
- 26 **FROM THE FUND.** Requests for funding shall be made to the commission.
- 27 Requests for funding submitted to the commission may be accompanied by
- 28 expressions of support from affected cities, towns, counties, natural
- 29 resource conservation districts, special districts or Indian communities.
- 30 F. As a condition of approval by the commission, the applicant shall
- 31 commit to work jointly with the affected cities, towns, counties, natural
- 32 resource conservation districts, special districts and Indian communities
- 33 that have contacted the commission pursuant to subsection D of this section
- 34 on all aspects of the proposal's implementation and monitoring, unless the
- 35 jurisdiction chooses not to participate.
- 36 G. Monies in the fund may only be spent to finance programs located in
- 37 this state.
- 38 H. Monies in the fund may be spent for any of the following:
- 39 1. Granting monies to entities for the acquisition of central Arizona
- 40 project water or effluent that will protect or restore rivers or streams
- 41 consistent with state water law. No entity may exercise the right of eminent
- 42 domain to acquire water or water rights using monies derived from this fund.
- 43 2. Granting monies to assist in developing, promoting and implementing
- 44 water conservation programs, directly related to the purposes of this
- 45 chapter, outside of the active management areas, except that no more than

1 five per cent of the monies spent in any fiscal year may be spent for this
2 purpose.

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

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

15 I. Monies in the fund may not be spent for remedial action purposes
16 undertaken pursuant to the comprehensive environmental response,
17 compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat.
18 2767; 42 United States Code section 9601) or title 49, chapter 2, article 5.

19 Sec. 3. Commission membership; concurrent terms

20 A. Notwithstanding section 45-2103, Arizona Revised Statutes, as
21 amended by this act, the appointed members of the Arizona water protection
22 fund commission who are currently serving shall continue to serve until their
23 terms expire.

24 B. The members of the Arizona water protection fund commission who are
25 appointed on or after the effective date of section 45-2103, Arizona Revised
26 Statutes, as amended by this act, shall serve terms concurrently with
27 existing members of the commission until the existing members' terms are
28 completed.

APPROVED BY THE GOVERNOR JUNE 20, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 21, 2013.