

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

SENATE BILL 1487

AN ACT

AMENDING SECTION 48-3772, ARIZONA REVISED STATUTES; AMENDING LAWS 2013, FIRST SPECIAL SESSION, CHAPTER 9, SECTION 16; MAKING APPROPRIATIONS; RELATING TO REVENUE BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 48-3772, Arizona Revised Statutes, is amended to
3 read:

4 48-3772. Duties and powers of district regarding replenishment

5 A. The district shall:

6 1. Establish annually the costs and expenses to replenish groundwater
7 pursuant to this article with respect to all parcels of member lands and all
8 member service areas located in each active management area, including
9 capital expenses, debt service expenses, the operation, maintenance,
10 replacement and administrative costs and expenses of the district,
11 replenishment reserve costs and expenses as provided in subsection E of this
12 section and reasonable reserves. Separate calculations of costs and expenses
13 shall be made for each active management area in which member lands or member
14 service areas are located and for each membership category. Costs and
15 expenses attributed by the district to contract replenishment obligations
16 shall not be included in these calculations.

17 2. Provide for the payment of all costs and expenses to replenish
18 groundwater pursuant to this chapter and the payment of operation,
19 maintenance, replacement and administrative costs and expenses and debt
20 service expenses of the district.

21 3. Levy an annual replenishment assessment against each parcel of
22 member land pursuant to section 48-3778 and an annual replenishment tax
23 against each municipal provider that has a member service area pursuant to
24 section 48-3781 to pay the district's costs and expenses as established
25 pursuant to paragraph 1 of this subsection.

26 4. Levy a contract replenishment tax against municipal providers that
27 are parties to contracts authorized under subsection B, paragraph 9 of this
28 section to pay the district's costs and expenses to replenish groundwater
29 based on contract replenishment obligations.

30 5. Establish and maintain reserve accounts in amounts as may be deemed
31 necessary to perform the district's obligations under this article.

32 6. Fulfill all obligations under resolutions adopted pursuant to
33 subsection B, paragraph 10 of this section.

34 7. Levy an activation fee as follows:

35 (a) For subdivisions within member lands and member service areas that
36 are enrolled before May 6, 2004 and that had not been issued a public report
37 before August 12, 2005, the district shall levy a one-time activation fee
38 against each housing unit to be constructed within the subdivision.

39 (b) For subdivisions within member lands and member service areas that
40 are enrolled on or after May 6, 2004, the district shall levy a one-time
41 activation fee against each housing unit to be constructed within the
42 subdivision.

43 (c) The activation fee shall be paid to the district **ACCORDING TO**
44 **EITHER OF THE FOLLOWING SCHEDULES, WHICHEVER THE SUBDIVIDER ELECTS:**

1 (i) PAID IN FULL before issuance of a public report for each real
2 estate subdivision identified in subdivision (a) or (b) of this paragraph, ~~as~~
3 ~~provided in section 45-576, subsection C.~~

4 (ii) ONE-HALF PAID BEFORE ISSUANCE OF A PUBLIC REPORT FOR EACH REAL
5 ESTATE SUBDIVISION IDENTIFIED IN SUBDIVISION (a) OR (b) OF THIS PARAGRAPH AND
6 THE REMAINING AMOUNT PAID NO LATER THAN ONE YEAR AFTER THE ISSUANCE OF THE
7 PUBLIC REPORT. THE TOTAL AMOUNT OF THE ACTIVATION FEE MUST BE THE AMOUNT OF
8 THE ACTIVATION FEE IN EFFECT AT THE TIME OF THE INITIAL PAYMENT. PAYMENT OF
9 THE INITIAL ONE-HALF OF THE ACTIVATION FEE PURSUANT TO THIS ITEM CONSTITUTES
10 SUFFICIENT PAYMENT OF APPLICABLE FEES FOR NOTICE OF INTENT TO SUBDIVIDE AS
11 PRESCRIBED IN SECTION 32-2181, SUBSECTION C AND FOR ISSUANCE OF A PUBLIC
12 REPORT AS PRESCRIBED IN SECTION 32-2183, SUBSECTION G AND SECTION 45-576,
13 SUBSECTION C, EXCEPT THAT ON FAILURE TO PAY THE REMAINING AMOUNT, THE
14 COMMISSIONER SHALL SUSPEND THE PUBLIC REPORT FOR THAT SUBDIVISION PURSUANT TO
15 SECTION 32-2183.

16 (d) The activation fee shall be established annually by the district.
17 THE AMOUNT OF THE ACTIVATION FEE TO BE PAID TO THE DISTRICT UNDER SUBDIVISION
18 (c) OF THIS PARAGRAPH MUST BE THE AMOUNT OF THE ACTIVATION FEE IN EFFECT AT
19 THE TIME OF PAYMENT. Revenues from the activation fee together with revenues
20 from other sources that are legally available to the district for those uses
21 shall be used by the district to acquire, lease or exchange water or water
22 rights and develop infrastructure necessary for the district to perform its
23 replenishment obligations.

24 8. For any year, set all of its rates and charges associated with the
25 acquisition, lease or exchange of water or water rights and development of
26 infrastructure necessary for the district to perform its replenishment
27 obligations, other than the annual membership dues established pursuant to
28 section 48-3779, so that the total projected revenues from revenue sources
29 other than the annual membership dues, that are legally available to the
30 district in that year to pay costs associated with the acquisition, lease or
31 exchange of water or water rights and development of infrastructure necessary
32 for the district to perform its replenishment obligations, shall be at least
33 three times the total projected revenues from the annual membership dues in
34 that year. For the purposes of this paragraph, costs associated with the
35 acquisition, lease or exchange of water or water rights do not include the
36 annual costs associated with delivery of water for replenishment purposes.

37 B. The district may:

38 1. Acquire, develop, construct, operate, maintain, replace and acquire
39 permits for water storage, storage facilities and recovery wells for
40 replenishment purposes.

41 2. Acquire, transport, hold, exchange, own, lease, store or replenish
42 water, except groundwater withdrawn from an active management area, subject
43 to the provisions of title 45, for the benefit of member lands and member
44 service areas.

1 3. Acquire, hold, exchange, own, lease, retire or dispose of water
2 rights for the benefit of member lands and member service areas.

3 4. Require municipal providers to provide such information, in such
4 form and within the time limits prescribed by the district, as may be
5 necessary to carry out the purpose of this chapter.

6 5. Levy and collect assessments, fees, charges, taxes and other
7 revenues as are provided in this chapter for the financing of replenishment
8 activities.

9 6. Contract for or perform feasibility studies of water storage,
10 storage facilities and recovery wells for replenishment purposes.

11 7. Acquire real and personal property for water storage, storage
12 facilities and recovery wells for replenishment purposes by purchase, lease,
13 donation, dedication, exchange or other lawful means.

14 8. Use any facilities and any excess storage capacity of any state
15 demonstration projects undertaken pursuant to title 45, chapter 3.1 for water
16 storage for replenishment purposes.

17 9. Subject to subsection G of this section, contract with any
18 municipal provider having a member service area to replenish groundwater on
19 behalf of the municipal provider and with respect to the member service area
20 in an amount in excess of the sum of the service area replenishment
21 obligations applicable to the member service area for all years in which the
22 district has not completed the replenishment of the groundwater replenishment
23 obligation for the member service area.

24 10. Adopt resolutions granting water availability status to a member
25 service area of a city, town or private water company and committing to
26 replenish a specified average annual volume of water in a location where the
27 city, town or private water company may physically access the water for
28 service to its customers, if all of the following apply:

29 (a) The district has reviewed its requirements for transportation of
30 central Arizona project water, its contracts, subcontracts, letter
31 agreements, excess water contracts, and other contractual obligations and its
32 member service area and member land requirements and has determined that the
33 district can meet those obligations and that capacity remains in the central
34 Arizona project to meet the obligations undertaken through the resolution.

35 (b) The resolution acknowledges that the commitment to replenish the
36 specified average annual volume of water in the location cited in the
37 resolution shall be a permanent obligation of the district, unless one of the
38 following applies:

39 (i) A permanent substitute supply of water is found for the city, town
40 or private water company and the substitution is approved by the director of
41 water resources, thus terminating the water availability status of the member
42 service area.

43 (ii) The requirements of section 45-576.07, subsection A are not met,
44 and thus the director of water resources does not issue an order granting or
45 maintaining the city, town or private water company as having an assured

1 water supply based in whole or in part on section 45-576.07. If no order is
2 issued within two years of the district adopting the resolution, the
3 resolution may be repealed, and the district shall be relieved of all
4 obligations under the resolution.

5 (c) The average annual volume of water specified in the resolution,
6 when added to the average annual volume of water specified in all other
7 resolutions adopted pursuant to this paragraph, does not exceed twenty
8 thousand acre-feet.

9 (d) The district has entered into an agreement with the city, town or
10 private water company under which the city, town or private water company
11 will hold for the district's future use, and provide to the district when
12 needed, sufficient water to meet the obligations undertaken by the district
13 through the resolution.

14 (e) The district determines that the obligations undertaken by the
15 district through the resolution will not increase annual replenishment
16 assessment rates or costs to central Arizona project contract and subcontract
17 holders and its member service areas and member lands.

18 (f) The director of water resources has found, pursuant to section
19 45-576.07, subsection H, that the district has the capability to grant water
20 availability status to member service areas.

21 11. Provide in resolutions adopted pursuant to paragraph 10 of this
22 subsection that the district may fulfill its obligations under the resolution
23 in any year by directly delivering to the city, town or private water company
24 the water that otherwise would have been replenished pursuant to the
25 resolution, if all of the following apply:

26 (a) The district has reviewed its requirements for transportation of
27 central Arizona project water, its contracts, subcontracts, letter
28 agreements, excess water contracts, and other contractual obligations, its
29 member service area and member land requirements and has determined that the
30 district can meet those obligations and that capacity remains in the central
31 Arizona project to make direct deliveries pursuant to this paragraph.

32 (b) The district determines that the delivery will not increase annual
33 replenishment assessment rates or costs to central Arizona project contract
34 and subcontract holders, its member service area and member lands.

35 12. Enter into agreements with a city, town or private water company
36 that will have water made available to it through a resolution adopted
37 pursuant to paragraph 10 of this subsection and under which the city, town or
38 private water company compensates the district for the costs and fair value
39 of the water supply provided by the district.

40 13. Issue revenue bonds pursuant to article 3 of this chapter to fund
41 the costs and expenses of the district for the acquisition, lease or exchange
42 of water or water rights and the development of infrastructure necessary for
43 the district to perform its replenishment obligations subject to the
44 following:

1 (a) The principal of, interest and premiums, if any, on revenue bonds
2 issued pursuant to article 3 of this chapter to acquire, lease or exchange
3 water or water rights and develop infrastructure necessary for the district
4 to perform its replenishment obligations are not payable from any revenues of
5 the district other than revenues generated or collected pursuant to this
6 article that are legally available to the district for those purposes and
7 revenues from the investment of the proceeds of the bonds.

8 (b) The district may not use the proceeds of the bonds to acquire or
9 lease:

10 (i) Groundwater, as defined in section 45-101, except as expressly
11 authorized in sections 45-547, 45-553 and 45-554.

12 (ii) Surface water, as defined in section 45-101, that is the subject
13 of a general adjudication pursuant to title 45, chapter 1, article 9.

14 (c) Nothing in subdivision (b) of this paragraph prohibits the
15 district from acquiring or leasing central Arizona project water.

16 14. Except as provided in section 48-3780.01, subsection B, in addition
17 to any other assessments, fees, charges or taxes levied and collected under
18 this chapter, or under any declaration, contract or agreement entered into
19 under this chapter, charge annual dues for membership pursuant to section
20 48-3779 against each parcel of member land and each municipal provider that
21 has a member service area.

22 C. The functions of the district under subsection B, paragraph 1 of
23 this section may be performed on behalf of the district by other persons
24 under contract with the district.

25 D. The capital costs of the facilities of any state demonstration
26 projects used by the district pursuant to subsection B, paragraph 8 of this
27 section shall not be included in the capital costs and expenses established
28 by the district under subsection A, paragraph 1 of this section.

29 E. The district shall establish and maintain a replenishment reserve
30 as follows:

31 1. The district shall calculate a reserve target for each of the three
32 active management areas within the district and shall identify the reserve
33 target in the plan of operation prepared pursuant to section 45-576.02. The
34 reserve target for each active management area shall be calculated as
35 follows:

36 (a) Establish the projected one hundred year replenishment obligation
37 for each active management area. For the purposes of this subdivision, each
38 active management area's projected one hundred year replenishment obligation
39 does not include replenishment obligations under resolutions adopted pursuant
40 to subsection B, paragraph 10 of this section or replenishment obligations
41 for category 2 member lands.

42 (b) Subtract from the active management area's projected one hundred
43 year replenishment obligation the sum of the following volumes of water
44 derived from sources identified in the plan as water that the district plans
45 to use to meet its replenishment obligations for that active management area:

1 (i) The annual volume of each nondeclining, long-term municipal and
2 industrial subcontract for central Arizona project water multiplied by one
3 hundred.

4 (ii) The annual volume of water under leases or contracts that can be
5 made physically and legally available to the district consistent with the
6 rules adopted pursuant to section 45-576, subsection H, multiplied by the
7 number of years, not to exceed one hundred, in which the water is to be made
8 available to the district. The water need not be continuously available to
9 be included in this item. A lease or contract shall not be considered under
10 this item if the water to be made available under the lease or contract is
11 for a term of less than twenty years.

12 (iii) The total volume of groundwater that the district plans to
13 transport to the active management area during the next one hundred years as
14 allowed by title 45, chapter 2, article 8.1.

15 (iv) The total volume of all sources of water not identified in items
16 (i), (ii) or (iii) of this subdivision that will not be held by the district
17 under a lease or contract. Volumes to be included under this item must be
18 consistent with the rules adopted by the director pursuant to section 45-576,
19 subsection H.

20 (c) Multiply the result from subdivision (b) of this paragraph by
21 twenty per cent. The result is the reserve target for the active management
22 area.

23 2. The reserve target for an active management area may be adjusted by
24 the district, subject to the approval of the director of water resources,
25 based on changes in either of the following:

26 (a) The active management area's projected one hundred year
27 replenishment obligation.

28 (b) The volumes of water identified in the plan of operation prepared
29 pursuant to section 45-576.02 as water that the district plans to use to meet
30 its replenishment obligations for that active management area.

31 3. The district shall include a replenishment reserve charge in the
32 annual replenishment assessment levied against all parcels of category 1
33 member land as provided in section 48-3774.01 and in the annual replenishment
34 tax levied against all municipal providers that have member service areas as
35 provided in section 48-3780.01. The replenishment reserve charge for each
36 active management area is established annually by the district based on the
37 reserve target for that active management area.

38 4. The district shall levy a replenishment reserve fee against
39 category 1 member lands pursuant to section 48-3774.01 and against member
40 service areas pursuant to section 48-3780.01. For category 1 member lands
41 the fee is equal to twice the applicable replenishment reserve charge
42 multiplied by the total projected average annual replenishment obligation for
43 the member lands as reported by the director of water resources pursuant to
44 section 45-578, subsection F. For member service areas the fee is equal to
45 twice the applicable replenishment reserve charge multiplied by the excess

1 groundwater increment. With the approval of the district and the director of
2 water resources, long-term storage credits as defined in section 45-802.01
3 may be assigned to the district's replenishment reserve subaccount in lieu of
4 paying the replenishment reserve fee.

5 5. The district shall use replenishment reserve charges and
6 replenishment reserve fees collected within each active management area
7 together with all interest earned on the charges and fees to store water in
8 that active management area in advance of groundwater replenishment
9 obligations for the purpose of developing long-term storage credits as
10 defined in section 45-802.01 that shall be credited to the replenishment
11 reserve subaccount for that active management area as provided in section
12 45-859.01.

13 6. Beginning on January 1, 2030 or earlier, on approval of the
14 director of water resources pursuant to section 45-859.01, subsection K, the
15 district may transfer credits from a replenishment reserve subaccount to a
16 conservation district account as provided in section 45-859.01 to satisfy its
17 groundwater replenishment obligations.

18 7. If the district transfers credits from the replenishment reserve
19 subaccount for an active management area pursuant to section 45-859.01,
20 subsection E, the district shall include in the annual replenishment
21 assessment levied against all parcels of category 1 member land in that
22 active management area and, except as provided in section 48-3780.01,
23 subsection B, in the annual replenishment tax levied against all municipal
24 providers that have member service areas in that active management area a
25 reserve replacement component to fund the replacement of the transferred
26 credits. The district shall use all monies from the reserve replacement
27 component collected within an active management area together with all
28 interest earned on the monies to develop long-term storage credits as defined
29 in section 45-802.01 within that active management area to be credited to the
30 replenishment reserve subaccount for that active management area as provided
31 in section 45-859.01.

32 8. For the purposes of establishing and maintaining the replenishment
33 reserve, the district shall have access to excess central Arizona project
34 water equivalent to but no more than the access the Arizona water banking
35 authority has for the purposes specified in section 45-2401, subsection H,
36 paragraph 2.

37 F. Groundwater replenished by the district pursuant to a contract to
38 replenish groundwater under subsection B, paragraph 9 of this section shall
39 not be credited to a replenishment reserve subaccount established under
40 section 45-859.01.

41 G. The district shall not enter into a contract authorized under
42 subsection B, paragraph 9 of this section unless the district has determined
43 that the contract will not adversely affect the district's ability to fulfill
44 its obligations under this chapter. For each contract entered into under
45 subsection B, paragraph 9 of this section, the district shall perform its

1 contract replenishment obligations in the active management area in which the
2 service area of the municipal provider that is the party to the contract is
3 located.

4 H. If the district replenishes groundwater on behalf of a municipal
5 provider pursuant to a contract to replenish groundwater under subsection B,
6 paragraph 9 of this section, the amount of groundwater so replenished shall
7 be a replenishment credit to the municipal provider that may be applied by
8 the municipal provider on notice to the district to reduce the service area
9 replenishment obligations applicable to the municipal provider.

10 I. In the Phoenix active management area, the district, to the extent
11 reasonably feasible, shall replenish groundwater in the east portion of the
12 active management area and in the west portion of the active management area
13 in the approximate proportion that the groundwater replenishment obligation
14 attributable in a particular year to member lands and member service areas
15 located in the east portion of the active management area bears to the
16 groundwater replenishment obligation attributable in that year to member
17 lands and member service areas located in the west portion of the active
18 management area. For the purposes of this subsection, the boundary between
19 the east Salt river valley subbasin and the west Salt river valley subbasin
20 is the boundary between the east and west portions of the active management
21 area.

22 J. The costs and expenses charged by the district to an active
23 management area water district established under chapter 28 of this title for
24 delivery of surplus central Arizona project water to such active management
25 area water district for replenishment purposes shall not exceed the costs and
26 expenses for delivery of such water that are or would be included by the
27 district in the costs and expenses of replenishment for member lands and
28 member service areas within the active management area in which such active
29 management area water district is situated.

30 Sec. 2. Laws 2013, first special session, chapter 9, section 16 is
31 amended to read:

32 Sec. 16. Department receivership revolving fund; use; intent

33 A. Notwithstanding section 6-135.01, Arizona Revised Statutes, in
34 fiscal ~~year~~ YEARS 2013-2014 AND 2014-2015, the superintendent of the
35 department of financial institutions may use monies in the department
36 receivership revolving fund established by section 6-135.01, Arizona Revised
37 Statutes, for expenditures on an electronic licensing system.

38 B. It is the intent of the legislature that expenditures in fiscal
39 ~~year~~ YEARS 2013-2014 AND 2014-2015 on an electronic licensing system as
40 prescribed in subsection A of this section not exceed A TOTAL OF \$850,000.

41 Sec. 3. Racing and boxing fees; increases; rulemaking
42 exemption; intent

43 A. The Arizona department of racing is exempt from the rulemaking
44 requirements of title 41, chapter 6, Arizona Revised Statutes, for the

1 purpose of increasing fees pursuant to sections 5-104 and 5-230, Arizona
2 Revised Statutes, until July 1, 2015.

3 B. It is the intent of the legislature that the revenue generated by
4 the fees collected pursuant to sections 5-104 and 5-230, Arizona Revised
5 Statutes, not exceed \$2,600,000 in fiscal year 2014-2015.

6 Sec. 4. Radiation regulatory agency; fees; increases; intent;
7 rulemaking exemption

8 A. Notwithstanding any other law, the director of the radiation
9 regulatory agency may increase fees in fiscal year 2014-2015 for services
10 provided in fiscal year 2014-2015.

11 B. It is the intent of the legislature that the revenue generated by
12 the fees collected pursuant to subsection A of this section not exceed
13 \$561,000.

14 C. The radiation regulatory agency shall deposit monies received from
15 any fees increased pursuant to subsection A of this section in the radiation
16 regulatory fee fund established by section 30-658, Arizona Revised Statutes.

17 D. The radiation regulatory agency is exempt from the rulemaking
18 requirements of title 41, chapter 6, Arizona Revised Statutes, for the
19 purpose of increasing fees pursuant to this section until July 1, 2015.

20 Sec. 5. Agricultural fees; intent; rulemaking exemption

21 A. Notwithstanding any other law, the director of the Arizona
22 department of agriculture, with the assistance of the department of
23 agriculture advisory council, may continue existing fees from fiscal year
24 2013-2014 in fiscal year 2014-2015 for services provided in fiscal year
25 2014-2015.

26 B. It is the intent of the legislature that the additional revenue
27 generated by the fees prescribed in subsection A of this section not exceed
28 \$218,000 to the state general fund, \$113,000 to the pesticide trust fund
29 established by section 3-350, Arizona Revised Statutes, and \$26,000 to the
30 dangerous plants, pests and diseases trust fund established by section
31 3-214.01, Arizona Revised Statutes, in fiscal year 2014-2015.

32 C. The Arizona department of agriculture is exempt from the rulemaking
33 requirements of title 41, chapter 6, Arizona Revised Statutes, for the
34 purpose of establishing fees pursuant to this section until July 1, 2015.

35 Sec. 6. Department of insurance; fee and assessment adjustment
36 suspension

37 Notwithstanding section 20-167, subsection F, Arizona Revised Statutes,
38 and section 20-466, subsection J, Arizona Revised Statutes, the director of
39 insurance may not revise fees or assessments in fiscal year 2014-2015 for the
40 purpose of meeting the requirement to recover at least ninety-five per cent
41 but not more than one hundred ten per cent of the department of insurance's
42 appropriated budget.

- 1 1. To the counties, 33.231 per cent.
2 2. To the incorporated cities and towns, 48.097 per cent.
3 3. To incorporated cities with a population of three hundred thousand
4 or more persons, 5.247 per cent.
5 4. To counties with a population of more than eight hundred thousand
6 persons, 13.425 per cent.
7 B. The allocation and distribution made pursuant to subsection A,
8 paragraphs 1, 2 and 3 of this section must be made as prescribed in section
9 28-6540, Arizona Revised Statutes. The allocation and distribution made
10 pursuant to subsection A, paragraph 4 of this section must be made as
11 prescribed in section 28-6538, subsection B, Arizona Revised Statutes.
12 C. The amounts appropriated in this section may be used only for the
13 direct costs of constructing, reconstructing, maintaining or repair of public
14 highways, streets or bridges and direct costs of rights-of-way acquisitions
15 and expenses related thereto.
16 Sec. 12. Effective date
17 Section 48-3772, Arizona Revised Statutes, as amended by this act, is
18 effective from and after December 31, 2014.