

REFERENCE TITLE: G&F; in-lieu fee; trust fund

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HB 2465

Introduced by
Representatives Brophy McGee, Pratt: Barton, Bowers, Cobb

AN ACT

AMENDING TITLE 17, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 17-265; AMENDING SECTION 35-142, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA GAME AND FISH COMMISSION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 17, chapter 2, article 4, Arizona Revised Statutes,
3 is amended by adding section 17-265, to read:

4 17-265. Game and fish in-lieu fee program restoration endowment
5 trust fund; exemption; definition

6 A. THE GAME AND FISH IN-LIEU FEE PROGRAM RESTORATION ENDOWMENT TRUST
7 FUND IS ESTABLISHED TO BE USED TO FULFILL THE DEPARTMENT'S OBLIGATIONS AS AN
8 IN-LIEU FEE SPONSOR PURSUANT TO SECTIONS 401 AND 404 OF THE CLEAN WATER ACT.
9 THE COMMISSION SHALL ADMINISTER THE TRUST FUND AS TRUSTEE.

10 B. THE TRUST FUND IS A PERMANENT ENDOWMENT FUND THAT CONSISTS OF
11 MONIES DEPOSITED FROM PROCEEDS RECEIVED BY THE DEPARTMENT AS AN IN-LIEU FEE
12 SPONSOR PURSUANT TO SECTIONS 401 AND 404 OF THE CLEAN WATER ACT, AND INTEREST
13 AND INVESTMENT INCOME EARNED ON THOSE MONIES, INCLUDING:

14 1. COMPENSATORY MITIGATION MONIES RECEIVED FROM FEDERAL IN-LIEU FEE
15 PERMITTEES THROUGH THE PURCHASE OF IN-LIEU FEE MITIGATION CREDITS.

16 2. MONIES RECEIVED FROM THE UNITED STATES ARMY CORPS OF ENGINEERS FOR
17 OTHER APPROVED IN IN-LIEU FEE PROGRAMS.

18 3. MONIES RECEIVED FROM THE UNITED STATES ARMY CORPS OF ENGINEERS AS A
19 RESOLUTION OF UNAUTHORIZED ACTIVITIES UNDER A COMPLETED FEDERAL ENFORCEMENT
20 ACTION PURSUANT TO SECTIONS 401 AND 404 OF THE CLEAN WATER ACT.

21 C. MONIES IN THE TRUST FUND ARE CONTINUOUSLY APPROPRIATED. MONIES IN
22 THE TRUST FUND DO NOT REVERT TO THE STATE GENERAL FUND AND ARE EXEMPT FROM
23 THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

24 D. THE STATE TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD
25 IN TRUST ANY MONIES DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO
26 BE TRUST MONIES AS DEFINED IN SECTION 35-310 AND WHICH MAY NOT BE COMMINGLED
27 WITH ANY OTHER MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES.
28 ON NOTICE FROM THE COMMISSION, THE STATE TREASURER SHALL INVEST AND DIVEST,
29 AS PROVIDED BY SECTION 35-313, 35-314 OR 35-314.03, ANY TRUST FUND MONIES
30 DEPOSITED IN THE STATE TREASURY, AND MONIES EARNED FROM INTEREST AND
31 INVESTMENT INCOME SHALL BE CREDITED TO THE TRUST FUND.

32 E. THE BENEFICIARIES OF THE TRUST ARE THE IN-LIEU FEE PROJECTS
33 SPONSORED BY THE DEPARTMENT PURSUANT TO SECTIONS 401 AND 404 OF THE CLEAN
34 WATER ACT. MONIES IN THE TRUST FUND SHALL BE SPENT BY THE COMMISSION SOLELY
35 FOR THE PURPOSES AUTHORIZED UNDER ANY ENABLING INSTRUMENT BETWEEN THE
36 COMMISSION, THE UNITED STATES ARMY CORPS OF ENGINEERS AND THE UNITED STATES
37 ENVIRONMENTAL PROTECTION AGENCY.

38 F. FOR THE PURPOSES OF THIS SECTION, "CLEAN WATER ACT" HAS THE SAME
39 MEANING PRESCRIBED IN SECTION 49-201.

40 Sec. 2. Section 35-142, Arizona Revised Statutes, is amended to read:

41 35-142. Monies kept in funds separate from state general fund;
42 receipt and withdrawal

43 A. All monies received for and belonging to the state shall be
44 deposited in the state treasury and credited to the state general fund except
45 the following, which shall be placed and retained in separate funds:

- 1 1. The unexpendable principal of monies received from federal land
2 grants shall be placed in separate funds and the account of each such
3 separate fund shall bear a title indicating the source and the institution or
4 purpose to which such fund belongs.
- 5 2. The interest, rentals and other expendable money received as income
6 from federal land grants shall be placed in separate accounts, each account
7 bearing a title indicating the source and the institution or purpose to which
8 the fund belongs. Such expendable monies shall be expended only as
9 authorized, regulated and controlled by the general appropriation act or
10 other act of the legislature.
- 11 3. All private or quasi-private monies authorized by law to be paid to
12 or held by the state treasurer shall be placed in separate accounts, each
13 account bearing a title indicating the source and purpose of such fund.
- 14 4. All monies legally pledged to retirement of building indebtedness
15 or bonds issued by those institutions authorized to incur such indebtedness
16 or to issue such bonds shall be placed in separate accounts.
- 17 5. Monies of a multi-county water conservation district authorized by
18 law to be paid to or held by the state treasurer shall be placed in separate
19 accounts, each account bearing a title indicating the source and purpose of
20 such fund.
- 21 6. All monies collected by the Arizona game and fish department shall
22 be deposited in a special fund known as the state game and fish protection
23 fund for the use of the Arizona game and fish commission in carrying out the
24 provisions of title 17.
- 25 7. All federal monies that are received by the department of economic
26 security for family assistance benefits and medical eligibility as a result
27 of efficiencies developed by the department of economic security and that
28 would otherwise revert to the state general fund pursuant to section 35-190
29 shall be retained for use by the department of economic security in
30 accordance with the terms and conditions imposed by the federal funding
31 source in an account or accounts established or authorized by the state
32 treasurer.
- 33 8. Monies designated by law as special state funds shall not be
34 considered a part of the general fund. Unless otherwise prescribed by law,
35 the state treasurer shall be the custodian of all such funds.
- 36 9. All monies received and any accounts established and maintained by
37 the director of the Arizona state retirement system or the administrator of
38 the public safety personnel retirement system, the corrections officer
39 retirement plan and the elected officials' retirement plan.
- 40 10. Monies received by a state agency or institution as a gift, devise
41 or donation shall not be considered a part of the state general fund or
42 transferred to the state general fund unless the gift, devise or donation
43 specifically authorizes a general state use for the monies. A state agency
44 or institution that receives a monetary gift, devise or donation shall
45 account for those monies separately.

1 11. ALL MONIES RECEIVED BY THE ARIZONA GAME AND FISH COMMISSION IN
2 CONNECTION WITH CLEAN WATER ACT IN-LIEU FEE PROJECTS SHALL BE DEPOSITED IN A
3 SPECIAL TRUST FUND KNOWN AS THE GAME AND FISH IN-LIEU FEE PROGRAM RESTORATION
4 ENDOWMENT TRUST FUND FOR THE USE OF THE ARIZONA GAME AND FISH COMMISSION FOR
5 THE PURPOSES AUTHORIZED UNDER ANY ENABLING INSTRUMENT BETWEEN THE COMMISSION,
6 THE UNITED STATES ARMY CORPS OF ENGINEERS AND THE UNITED STATES ENVIRONMENTAL
7 PROTECTION AGENCY.

8 B. No money shall be received or held by the state treasurer except as
9 authorized by law, and in every instance the treasurer shall issue a receipt
10 for money received and shall record the transaction in the statewide
11 accounting system. No money shall be withdrawn from the treasury except on
12 the warrant or electronic funds transfer voucher of the department of
13 administration.

14 C. Monies received for and belonging to the state and resulting from
15 compromises or settlements by or against this state, excluding restitution
16 and reimbursement to state agencies for costs or attorney fees, shall be
17 credited to the state general fund unless specifically credited to another
18 fund by law. A fund consisting of monies other than monies received for
19 restitution, costs or attorney fees shall not be established on the basis of
20 a court order without prior legislative authorization. For the purposes of
21 this subsection, "restitution" means monies intended to compensate a
22 specific, identifiable person, including this state, for economic loss.

23 D. All federal monies granted and paid to the state by the federal
24 government shall be accounted for in the accounts or funds of the state in
25 the necessary detail to meet federal and state accounting, budgetary and
26 auditing requirements, and all appropriations for matching such federal
27 monies shall be transferred from the general fund to such separate funds as
28 needed, except as otherwise required by the federal government.

29 E. Nothing in this section requires the establishment of separate
30 accounts or funds for such federal monies unless otherwise required by
31 federal or state law. The department of administration has the authority to
32 use the most efficient system of accounts and records, consistent with legal
33 requirements and standard and necessary fiscal safeguards.

34 F. Nothing in this section precludes the creation by the department of
35 administration of a clearing account or other acceptable accounting method to
36 effect prompt payment of claims from an approved budget or appropriation.
37 The department of administration shall report each account or fund
38 established or cancelled to the directors of the joint legislative budget
39 committee and the governor's office of strategic planning and budgeting.

40 G. Nothing in this section or any other section precludes the use of
41 monies kept in funds separate from the general fund, the interest from which
42 accrues to the general fund, for payment of claims against the general fund,
43 provided sufficient monies remain available for payment of claims against
44 such funds.

1 H. The department of administration may issue warrants for qualified
2 expenditures of federal program monies before they are deposited in the state
3 treasury. The receipt of federal monies shall be timed to coincide, as
4 closely as administratively feasible, with the redemption of warrants by the
5 state treasurer. The department of administration shall limit expenditures
6 to the amount that has been made available for the use under the grant award
7 by the federal government. The state agency initiating the expenditures is
8 responsible for ensuring that expenditures qualify for coverage under the
9 guidelines of the federal grant award.

10 I. The department of administration shall establish the policies and
11 procedures for all state agencies for drawing federal monies. When the
12 established method results in federal monies being held by this state, the
13 department of administration may use the interest earned on the monies to pay
14 the federal government for any related interest liability. If an interest
15 liability is incurred due to a state agency varying from the established
16 policies and procedures, the department of administration shall charge the
17 appropriate agency account or fund. Any federal interest liability owed to
18 this state as a result of the delayed federal disbursements shall be used to
19 offset this state's interest liability to the federal government. Any
20 remaining interest earnings shall be deposited in the state general fund.

21 J. Any state agency or authorized agent of a state agency may accept
22 credit cards pursuant to an agreement entered into by the state treasurer
23 pursuant to section 35-315 for the payment of any amount due to that agency
24 or agent or this state.

25 K. Except for the department of revenue, agencies or authorized agents
26 on behalf of state agencies that accept credit cards shall deduct any
27 applicable discount fee and processing fee associated with the transaction
28 amount before depositing the net amount in the appropriate state fund. No
29 other reduction is permitted against the transaction amount. The net amount
30 deposited in the appropriate state fund shall be considered as the full
31 deposit required by law of monies received by the agency or the authorized
32 agent. Payment of any applicable discount fee and processing fee shall be
33 accounted for in the annual report submitted to the governor's office of
34 strategic planning and budgeting in accordance with section 41-1273. The
35 transaction amount of any credit card transaction shall not be reduced by any
36 discount fee or processing fee in an amount in excess of the merchant card
37 settlement fees reflected in the state banking contract with the state
38 treasurer's office.

39 L. Any state agency that contracts with an authorized agent for the
40 electronic processing of transactions pursuant to title 41, chapter 23 may
41 include a provision in the contract to allow the authorized agent to impose a
42 convenience fee. If allowed, the convenience fee shall be charged to the
43 cardholder in addition to the transaction amount, except for the following:

- 1 1. Except as provided in subsection R of this section, any permits,
2 licenses or other authorizations needed to pursue a trade or occupation in
3 this state.
- 4 2. Except as provided in subsection R of this section, any permits,
5 licenses or other authorizations needed to establish, expand or operate a
6 business in this state.
- 7 3. Except as provided in subsection R of this section, any permits,
8 licenses or other authorizations needed to register a vehicle or license a
9 driver in this state.
- 10 M. Each state agency or its authorized agent shall:
- 11 1. Deduct the amount of the convenience fee before depositing the
12 transaction amount or the transaction amount reduced by the discount fee or
13 the processing fee, or both, into the appropriate state fund.
- 14 2. Not deduct any part of the convenience fee from the transaction
15 amount before depositing the net amount into the appropriate state fund.
- 16 3. Deduct the amount of the discount fee or the processing fee, or
17 both, from the transaction amount before depositing the net amount into the
18 appropriate state fund.
- 19 N. The net amount deposited in the appropriate state fund pursuant to
20 subsection L or M of this section shall be considered as the full deposit of
21 monies that is required by law and that is received by the agency.
- 22 O. Notwithstanding section 35-142.01, convenience fees received by a
23 state agency or its authorized agent are limited to, and may be used to
24 offset, the costs imposed by the authorized agent in processing the
25 transactions.
- 26 P. When the percentage of electronic transactions first exceeds at
27 least thirty percent of a state agency's total transactions, the state agency
28 shall perform a cost benefit report, including costs of convenience fees, the
29 amount of revenue generated and any realized cost savings.
- 30 Q. Nothing in this section or any other provision of law authorizes
31 any state agency, authorized agent of any state agency or budget unit to
32 establish a bank account for any government monies. All monies received by
33 or on behalf of this state shall be deposited with and in the custody of the
34 state treasurer or in an account that is authorized by the state treasurer
35 pursuant to this section. This subsection does not apply to monies received
36 and any accounts established and maintained by the director of the Arizona
37 state retirement system or the administrator of the public safety personnel
38 retirement system, the corrections officer retirement plan and the elected
39 officials' retirement plan.
- 40 R. If a state agency provides an alternative method of payment, the
41 convenience fee may be charged to the cardholder in addition to the
42 transaction amount.