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

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

48-3772. Duties and powers of district regarding replenishment

A. The district shall:

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

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

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

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

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

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

7. Levy an activation fee as follows:

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

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

(c) The activation fee shall be paid to the district ACCORDING TO EITHER OF THE FOLLOWING SCHEDULES, WHICHEVER THE SUBDIVIDER ELECTS:
(i) PAID IN FULL before issuance of a public report for each real
estate subdivision identified in subdivision (a) or (b) of this paragraph, as
provided in section 45-576, subsection C.

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

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

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

B. The district may:

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

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

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

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

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

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

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

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

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

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

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

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

      (ii) The requirements of section 45-576.07, subsection A are not met, and thus the director of water resources does not issue an order granting or maintaining the city, town or private water company as having an assured
water supply based in whole or in part on section 45-576.07. If no order is issued within two years of the district adopting the resolution, the resolution may be repealed, and the district shall be relieved of all obligations under the resolution.

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

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

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

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

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

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

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

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

13. Issue revenue bonds pursuant to article 3 of this chapter to fund the costs and expenses of the district for the acquisition, lease or exchange of water or water rights and the development of infrastructure necessary for the district to perform its replenishment obligations subject to the following:
(a) The principal of, interest and premiums, if any, on revenue bonds issued pursuant to article 3 of this chapter to acquire, lease or exchange water or water rights and develop infrastructure necessary for the district to perform its replenishment obligations are not payable from any revenues of the district other than revenues generated or collected pursuant to this article that are legally available to the district for those purposes and revenues from the investment of the proceeds of the bonds.

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

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

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

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

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

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

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

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

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

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

(b) Subtract from the active management area's projected one hundred year replenishment obligation the sum of the following volumes of water derived from sources identified in the plan as water that the district plans to use to meet its replenishment obligations for that active management area:
(i) The annual volume of each nondeclining, long-term municipal and industrial subcontract for central Arizona project water multiplied by one hundred.

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

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

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

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

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

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

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

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

4. The district shall levy a replenishment reserve fee against category 1 member lands pursuant to section 48-3774.01 and against member service areas pursuant to section 48-3780.01. For category 1 member lands the fee is equal to twice the applicable replenishment reserve charge multiplied by the total projected average annual replenishment obligation for the member lands as reported by the director of water resources pursuant to section 45-578, subsection F. For member service areas the fee is equal to twice the applicable replenishment reserve charge multiplied by the excess
groundwater increment. With the approval of the district and the director of
groundwater resources, long-term storage credits as defined in section 45-802.01
may be assigned to the district's replenishment reserve subaccount in lieu of
paying the replenishment reserve fee.

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

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

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

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

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

G. The district shall not enter into a contract authorized under
subsection B, paragraph 9 of this section unless the district has determined
that the contract will not adversely affect the district's ability to fulfill
its obligations under this chapter. For each contract entered into under
subsection B, paragraph 9 of this section, the district shall perform its
contract replenishment obligations in the active management area in which the
service area of the municipal provider that is the party to the contract is
located.

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

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

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

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

Sec. 16. Department receivership revolving fund; use; intent
A. Notwithstanding section 6-135.01, Arizona Revised Statutes, in
fiscal years 2013-2014 and 2014-2015, the superintendent of the
department of financial institutions may use monies in the department
receivership revolving fund established by section 6-135.01, Arizona Revised
Statutes, for expenditures on an electronic licensing system.
B. It is the intent of the legislature that expenditures in fiscal
years 2013-2014 and 2014-2015 on an electronic licensing system as
prescribed in subsection A of this section not exceed a total of $850,000.

Sec. 3. Racing and boxing fees; increases; rulemaking
exemption; intent
A. The Arizona department of racing is exempt from the rulemaking
requirements of title 41, chapter 6, Arizona Revised Statutes, for the
purpose of increasing fees pursuant to sections 5-104 and 5-230, Arizona Revised Statutes, until July 1, 2015.

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

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

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

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

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

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

Sec. 5. Agricultural fees; intent; rulemaking exemption

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

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

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

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

Notwithstanding section 20-167, subsection F, Arizona Revised Statutes, and section 20-466, subsection J, Arizona Revised Statutes, the director of insurance may not revise fees or assessments in fiscal year 2014-2015 for the purpose of meeting the requirement to recover at least ninety-five per cent but not more than one hundred ten per cent of the department of insurance's appropriated budget.
Sec. 7. **Department of financial institutions; financial services fund**

Notwithstanding any other law, the department of financial institutions may use the financial services fund established by section 6-991.21, Arizona Revised Statutes, for general operating expenditures of the department.

Sec. 8. **County fiscal obligations; report**

A. Notwithstanding any other law, for fiscal year 2014-2015, a county with a population of less than two hundred thousand persons according to the 2010 United States decennial census may meet any county fiscal obligation from any source of county revenue designated by the county, including monies of any countywide special taxing jurisdiction in which the board of supervisors serves as the board of directors.

B. On or before October 1, 2014, all counties with a population of less than two hundred thousand persons according to the 2010 United States decennial census shall report to the director of the joint legislative budget committee whether the county used a revenue source to meet a county fiscal obligation pursuant to subsection A of this section and, if so, the specific source and amount of revenues that the county intends to use in fiscal year 2014-2015.

Sec. 9. **Appropriation; arts fund**

Notwithstanding section 35-144, Arizona Revised Statutes, the sum of $1,000,000 from interest income earned on the budget stabilization fund established by section 35-144, Arizona Revised Statutes, is appropriated in fiscal year 2014-2015 for deposit in the arts fund established by section 41-983, Arizona Revised Statutes.

Sec. 10. **Child protective services; office of ombudsman-citizens aide; investigations; delayed repeal**

A. Child protective services or its successor agency shall establish a mechanism to direct complainants to the office of ombudsman-citizens aide. The ombudsman-citizens aide shall process these complaints pursuant to title 41, chapter 8, article 5, Arizona Revised Statutes, except that notwithstanding section 41-1379, Arizona Revised Statutes, after investigating a complaint, the ombudsman-citizens aide may refer the matter to the presiding judge of the superior court of the appropriate county for further review and action.

B. This section is repealed from and after June 30, 2016.

Sec. 11. **Arizona highway user revenue fund; distribution; fiscal years 2014-2015, 2015-2016 and 2016-2017**

A. Notwithstanding any other law, before the distribution of revenues of the Arizona highway user revenue fund pursuant to section 28-6538, Arizona Revised Statutes, the department of transportation shall allocate and the state treasurer shall distribute $30,000,000 in fiscal year 2014-2015, $30,000,000 in fiscal year 2015-2016 and $60,000,000 in fiscal year 2016-2017 as follows:
1. To the counties, 33.231 per cent.
2. To the incorporated cities and towns, 48.097 per cent.
3. To incorporated cities with a population of three hundred thousand or more persons, 5.247 per cent.
4. To counties with a population of more than eight hundred thousand persons, 13.425 per cent.

B. The allocation and distribution made pursuant to subsection A, paragraphs 1, 2 and 3 of this section must be made as prescribed in section 28-6540, Arizona Revised Statutes. The allocation and distribution made pursuant to subsection A, paragraph 4 of this section must be made as prescribed in section 28-6538, subsection B, Arizona Revised Statutes.

C. The amounts appropriated in this section may be used only for the direct costs of constructing, reconstructing, maintaining or repair of public highways, streets or bridges and direct costs of rights-of-way acquisitions and expenses related thereto.

Sec. 12. Effective date

Section 48-3772, Arizona Revised Statutes, as amended by this act, is effective from and after December 31, 2014.