

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

CHAPTER 126
SENATE BILL 1478

AN ACT

AMENDING TITLE 45, CHAPTER 1, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 15;
AMENDING SECTIONS 45-2104, 45-2113, 45-2423, 45-2456, 45-2457 AND 45-2491,
ARIZONA REVISED STATUTES; RELATING TO WATER CONSERVATION RESOURCE MANAGEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 45, chapter 1, Arizona Revised Statutes, is amended
3 by adding article 15, to read:

4 ARTICLE 15. WATERSHED IMPROVEMENT PROGRAM

5 45-351. Watershed improvement program; purpose; projects;
6 funding

7 A. THE WATERSHED IMPROVEMENT PROGRAM IS ESTABLISHED IN THE DEPARTMENT
8 UNDER THE AUTHORITY OF THE DIRECTOR FOR THE PURPOSE OF SELECTIVE CONTROL,
9 REDUCTION OR REMOVAL OF NOXIOUS BRUSH AND OTHER VEGETATION AND FOR THE
10 REVEGETATION OF LAND ON WHICH BRUSH AND VEGETATION HAS BEEN CONTROLLED,
11 REDUCED OR REMOVED.

12 B. THE WATERSHED IMPROVEMENT PROGRAM MAY PROVIDE FUNDING FOR PROJECTS
13 THAT ARE DESIGNED TO CONTROL, REDUCE OR REMOVE BRUSH FROM A WATERSHED OR A
14 PORTION OF A WATERSHED, CONSISTENT WITH THE PURPOSES OF THE PROGRAM.

15 C. ANY PERSON, ORGANIZATION OR POLITICAL SUBDIVISION IS ELIGIBLE TO
16 APPLY FOR PROJECT FUNDING FROM THE PROGRAM.

17 D. THE WATERSHED IMPROVEMENT PROGRAM SHALL BE FUNDED FROM ANY MONIES
18 MADE AVAILABLE FOR THAT PURPOSE FROM THE ARIZONA WATER PROTECTION FUND
19 ESTABLISHED BY SECTION 45-2111, FROM ANY MONIES MADE AVAILABLE FOR THAT
20 PURPOSE FROM THE DEPARTMENT AND FROM ANY OTHER MONIES RECEIVED BY THE
21 PROGRAM.

22 45-352. Program administration; rules; project criteria; report

23 A. THE DEPARTMENT SHALL ADOPT RULES TO CARRY OUT THE PURPOSES OF THIS
24 ARTICLE, INCLUDING RULES THAT PRESCRIBE CRITERIA FOR PROJECT PROPOSALS AND
25 THAT ESTABLISH PRIORITIES FOR PROJECTS FOR EACH FUNDING CYCLE, INCLUDING A
26 PRIORITY FOR PROJECTS THAT BALANCE THE MOST CRITICAL NEEDS.

27 B. THE DEPARTMENT MAY EMPLOY OR CONTRACT WITH PERSONS AS REASONABLY
28 NECESSARY TO IMPLEMENT THIS ARTICLE.

29 C. THE DEPARTMENT SHALL REPORT TO THE SPEAKER OF THE HOUSE OF
30 REPRESENTATIVES, THE PRESIDENT OF THE SENATE AND THE GOVERNOR ON OR BEFORE
31 DECEMBER 31 EACH YEAR REGARDING THE ACTIVITIES OF THE WATERSHED IMPROVEMENT
32 PROGRAM DURING THE PRECEDING FISCAL YEAR AND SHALL PROVIDE A COPY OF THE
33 REPORT TO THE SECRETARY OF STATE. THE DEPARTMENT SHALL MAKE THE REPORT
34 AVAILABLE TO THE PUBLIC BY POSTING THE REPORT ON THE DEPARTMENT'S WEBSITE.

35 45-353. Program termination

36 THE PROGRAM ESTABLISHED BY THIS ARTICLE ENDS ON JULY 1, 2024 PURSUANT
37 TO SECTION 41-3102.

38 Sec. 2. Section 45-2104, Arizona Revised Statutes, is amended to read:

39 45-2104. Powers and duties; limitations

40 A. The powers and authority vested in and the duties imposed on the
41 members of the commission shall be exercised by a quorum of members, which
42 consists of a majority of members then in office, except that a lesser number
43 may hold public meetings without taking legal action.

44 B. The commission shall:

- 45 1. Adopt rules necessary to perform its duties.

1 2. Administer the expenditure of monies in accordance with section
2 45-2113.

3 3. Coordinate its staffing needs with the director and the state land
4 commissioner.

5 4. Make and execute all necessary contracts, including grants and
6 intergovernmental agreements pursuant to title 11, chapter 7, article 3.

7 5. Adopt an official seal for the authentication of its records,
8 decisions and resolutions.

9 6. Keep the minutes of its meetings, ~~AND~~ AND all records, reports and
10 other information relating to its work and programs in permanent form,
11 systematically indexed and filed.

12 7. Designate the person or persons who shall execute all documents and
13 instruments on behalf of the commission.

14 8. Each year elect two members to act as a chair and a vice-chair for
15 the commission.

16 9. Manifest and record its actions by motion, resolution, order or
17 other appropriate means.

18 10. In addition to those meetings required by law to be open, hold open
19 public meetings as the commission considers appropriate.

20 11. Prepare an annual report of its activities.

21 C. The commission may:

22 1. Sue and be sued.

23 2. Contract with any person for the expenditure of monies, including
24 the granting of monies, consistent with section 45-2113.

25 3. Meet jointly with federal or state authorities to consider matters
26 of mutual interest.

27 4. Secure from any federal or state agency or department information
28 necessary to enable the commission to carry out its purposes.

29 5. Accept, use and dispose of appropriations, gifts or grants of money
30 or other property or donations of services, from whatever source, only to
31 carry out the purposes authorized in this chapter.

32 6. Perform all other acts necessary to carry out the purposes of this
33 chapter.

34 D. Nothing in this chapter shall be construed to authorize the
35 commission to purchase real property or to use this state's right of eminent
36 domain to acquire water or water rights ~~OR LONG-TERM STORAGE CREDITS~~ using
37 monies derived from the Arizona water protection fund established by section
38 45-2111.

39 Sec. 3. Section 45-2113, Arizona Revised Statutes, is amended to read:
40 ~~45-2113.~~ Fund grants; applications

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

- 1 1. Projects for which matching monies or assets of comparable value,
2 including in-kind contributions, will be provided by other sources.
- 3 2. Projects that provide for the continued maintenance of the portion
4 of the river and stream and associated riparian habitat that are enhanced by
5 the project.
- 6 3. Projects that include broad based local involvement.
- 7 4. Projects that directly benefit perennial or intermittent rivers or
8 streams.
- 9 B. The commission shall require as a condition of approval of any
10 proposal all of the following provisions:
- 11 1. Allowing access for inspection and evaluation of the project.
- 12 2. Controlling the expenditure of and accounting for any monies
13 granted by the commission
- 14 3. Requiring that those persons responsible for the project submit all
15 pertinent information and research gained from the project to the commission.
- 16 4. Requiring that any person receiving a grant spend no more than five
17 per cent of the grant on costs of administration.
- 18 C. The commission shall provide for public involvement regarding the
19 applications submitted to the commission which shall include notice to any
20 person who requests notice of applications and which shall provide a
21 reasonable opportunity for comment on the application which shall not be less
22 than forty-five days.
- 23 D. On receipt of an application the commission shall notify cities,
24 towns, counties, natural resource conservation districts, special districts
25 and Indian communities affected by the proposal and shall provide a
26 reasonable opportunity for comment on the application which shall not be less
27 than forty-five days.
- 28 E. Any person, state agency or political subdivision of this state may
29 submit a request for funding from the fund for purposes prescribed by this
30 section. A federal agency is not eligible for funding from the fund.
31 Requests for funding shall be made to the commission. Requests for funding
32 submitted to the commission may be accompanied by expressions of support from
33 affected cities, towns, counties, natural resource conservation districts,
34 special districts or Indian communities.
- 35 F. As a condition of approval by the commission, the applicant shall
36 commit to work jointly with the affected cities, towns, counties, natural
37 resource conservation districts, special districts and Indian communities
38 that have contacted the commission pursuant to subsection D of this section
39 on all aspects of the proposal's implementation and monitoring, unless the
40 jurisdiction chooses not to participate.
- 41 G. Monies in the fund may only be spent to finance programs located in
42 this state.
- 43 H. Monies in the fund may be spent for any of the following:
- 44 1. Granting monies to entities for the acquisition of central Arizona
45 project water or effluent that will protect or restore rivers or streams

1 consistent with state water law. No entity may exercise the right of eminent
2 domain to acquire water or water rights using monies derived from this fund.

3 2. Granting monies to assist in developing, promoting and implementing
4 water conservation programs, directly related to the purposes of this
5 chapter, outside of the active management areas, except that no more than
6 five per cent of the monies spent in any fiscal year may be spent for this
7 purpose.

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

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

20 I. Monies in the fund may not be spent for:

21 1. ANY PROJECT THAT INCLUDES THE PLANTING OF MESQUITE, TAMARISK OR
22 OTHER NONNATIVE HIGH WATER USAGE TREES THAT CONSUME WATER TO A DEGREE THAT IS
23 DETRIMENTAL TO WATER CONSERVATION EFFORTS, BUT MAY BE USED FOR REMOVAL OF
24 MESQUITE, TAMARISK OR OTHER NONNATIVE HIGH WATER USAGE TREES THAT CONSUME
25 WATER TO A DEGREE THAT IS DETRIMENTAL TO WATER CONSERVATION EFFORTS.

26 2. ANY remedial action purposes undertaken pursuant to the
27 comprehensive environmental response, compensation, and liability act of
28 1980, as amended (P.L. 96-510; 94 Stat. 2767; 42 United States Code section
29 9601) or title 49, chapter 2, article 5.

30 Sec. 4. Section 45-2423, Arizona Revised Statutes, is amended to read:

31 45-2423. Powers and duties of authority

32 A. The authority, acting through its commission, shall:

33 1. Administer the Arizona water banking fund in accordance with this
34 chapter.

35 2. Coordinate its staffing needs with the director and CAWCD.

36 3. Coordinate the storage of water and distribution and extinguishment
37 of long-term storage credits with the director in accordance with this
38 chapter and the water management objectives set forth in chapter 2 of this
39 title.

40 4. Coordinate with CAWCD for the purchase, delivery and storage of
41 Colorado river water delivered through the central Arizona project in
42 accordance with this chapter AND CONFER WITH CAWCD REGARDING THE PURCHASE OF
43 LONG-TERM STORAGE CREDITS FOR WHICH CAWCD WILL BE THE RECOVERY AGENT.

44 5. Coordinate and confer with state agencies, municipal corporations,
45 special districts, authorities, other political subdivisions, private

1 entities, Indian communities and the United States on matters within their
2 jurisdiction relating to the policy and purposes of this chapter.

3 6. Determine, on an annual basis, the quantity of Colorado river
4 water, surface water other than Colorado river water and effluent to be
5 stored by the authority and where that storage will occur.

6 7. Account for, hold and distribute or extinguish long-term storage
7 credits in accordance with this chapter.

8 8. Comply with all aspects of chapter 3.1 of this title.

9 9. Perform the authority's replenishment responsibilities under
10 chapter 15, article 3 of this title with monies appropriated from the state
11 general fund by the legislature for that purpose and to the extent that
12 monies appropriated by the legislature for that purpose are not available,
13 with monies collected in the Pinal active management area pursuant to section
14 45-611, subsection C, paragraph 3.

15 10. Carry out the obligations of this state under section 105 of Public
16 Law 108-451 as agent for this state, including the direct delivery of water
17 to Indian communities in this state and the leasing of non-Indian
18 agricultural priority and Indian priority central Arizona project water as
19 prescribed by article 5 of this chapter.

20 11. Adopt an official seal for the authentication of its records,
21 decisions and resolutions.

22 12. Keep the minutes of its meetings and all records, reports and other
23 information relating to its work and programs in permanent form,
24 systematically indexed and filed.

25 B. The authority, acting through its commission, may:

26 1. Apply for and hold water storage permits.

27 2. Accrue, PURCHASE, exchange, assign, lend and hold long-term storage
28 credits in accordance with this chapter, SUBJECT TO THE FOLLOWING:

29 (a) EXCEPT FOR THE PURCHASE OF LONG-TERM STORAGE CREDITS FROM AN
30 INDIAN COMMUNITY PURSUANT TO SECTION 45-841.01, THE AUTHORITY MAY PURCHASE
31 LONG-TERM STORAGE CREDITS ONLY AFTER THE AUTHORITY HAS STORED OR SCHEDULED
32 FOR STORAGE ALL AVAILABLE EXCESS CENTRAL ARIZONA PROJECT WATER OR WHEN
33 CENTRAL ARIZONA PROJECT WATER IS OTHERWISE UNAVAILABLE OR UNDELIVERABLE.

34 (b) LONG-TERM STORAGE CREDITS ACCRUED OR PURCHASED BY THE AUTHORITY
35 MUST BE DISTRIBUTED OR EXTINGUISHED IN ACCORDANCE WITH THE RULES OF OPERATION
36 SPECIFIED IN SECTION 45-2457 FOR THE MONIES USED BY THE AUTHORITY TO ACCRUE
37 OR PURCHASE THE CREDITS.

38 3. Exchange Colorado river water for any type of water in accordance
39 with chapter 4 of this title.

40 4. Enter into water banking services agreements.

41 5. Charge fees for water banking services.

42 6. Apply for and hold any water quality permit required for water
43 storage by the department of environmental quality under title 49, chapter 2,
44 article 3 or by federal law.

45 7. Make and execute all contracts, including intergovernmental
46 agreements pursuant to title 11, chapter 7, article 3, that shall be signed

1 by the chairperson, or in the chairperson's absence the vice-chairperson, and
2 attested by the secretary, necessary to:

3 (a) Obtain for storage Colorado river water delivered through the
4 central Arizona project. Agreements by which the authority obtains Colorado
5 river water are exempt from the requirements of title 41, chapter 23.

6 (b) Obtain effluent or surface water other than Colorado river water
7 for storage but only after the authority has stored **OR SCHEDULED FOR STORAGE**
8 all available excess Central Arizona project water or when central Arizona
9 project water is otherwise unavailable or undeliverable.

10 (c) Affiliate water storage permits held by the authority with storage
11 facility permits.

12 (d) Store water for purposes of this chapter at permitted storage
13 facilities.

14 (e) Distribute long-term storage credits ~~earned~~ **ACCRUED OR PURCHASED**
15 by the authority to make water available to municipal and industrial users of
16 Colorado river water in this state that are inside or outside of the CAWCD
17 service area, in accordance with the provisions of this chapter.

18 (f) Store Colorado river water in Arizona on behalf of appropriately
19 authorized agencies in California and Nevada.

20 (g) Cause a decrease in Arizona diversions from the Colorado river,
21 ensuring that Arizona will use less than its full entitlement to Colorado
22 river water in years in which California and Nevada agencies are
23 contractually authorized to call on the water stored on their behalf by the
24 authority.

25 (h) Distribute long-term storage credits earned by the authority on
26 behalf of agencies in California and Nevada to Colorado river water users in
27 Arizona to use in place of Colorado river water that would have otherwise
28 been used by those Arizona users.

29 (i) Replenish water pursuant to chapter 15, article 3 of this title,
30 including entering into an intergovernmental agreement with the Gila river
31 Indian community pursuant to section 45-2624.

32 (j) Distribute long-term storage credits ~~earned~~ **ACCRUED OR PURCHASED**
33 by the authority to make water available to Indian communities in this state
34 for Indian firming measures pursuant to article 5 of this chapter.

35 8. Sue and be sued.

36 9. Perform all other acts necessary for the authority to carry out its
37 purposes, powers and duties in accordance with this chapter.

38 10. Submit a request for a general fund appropriation to the
39 legislature each year. A request shall be accompanied by a budget detailing
40 how the appropriation would be used and justifying the need for the
41 appropriation.

42 11. Form temporary committees as deemed necessary by the authority to
43 provide the authority with advice on issues identified by the
44 authority. Advisory committees may consist of members of the public selected
45 by the authority, members of the authority and authority staff.

1 ~~12. Purchase long term storage credits accrued by an Indian community~~
2 ~~pursuant to section 45-841.01, provided such long term storage credits are~~
3 ~~distributed or extinguished in accordance with the rules of operation~~
4 ~~specified in section 45-2457 for the funds used by the authority to purchase~~
5 ~~the credits.~~

6 Sec. 5. Section 45-2456, Arizona Revised Statutes, is amended to read:
7 45-2456. Annual plan of operation

8 A. By January 1 of each year, the authority shall adopt a plan of
9 operation for that calendar year.

10 B. In developing the plan of operation, the authority shall consider
11 all of the following:

12 1. The amount of Colorado river water available for storage.

13 2. The advice of the department of water resources regarding where
14 water storage would most contribute to fulfilling the water management
15 objectives set forth in chapter 2 of this title.

16 3. The advice of CAWCD regarding the amount and location of water
17 delivery and storage that is feasible.

18 4. The respective costs of storing water at available storage
19 facilities.

20 5. The amount of storage allowed by water storage permits held by the
21 authority.

22 6. The monies available from the banking fund.

23 7. The way in which water stored could be used by the authority to
24 achieve the policy and purposes of this chapter.

25 8. The obligations of the authority under any water banking services
26 agreement into which the authority has entered.

27 9. Any other factor the authority determines to be relevant.

28 C. The authority shall prepare a draft plan of operation each year.
29 The authority shall solicit public comment on the draft plan of operation by
30 presenting the draft plan of operation:

31 1. To the groundwater users advisory councils for the Tucson, Phoenix
32 and Pinal active management areas. The presentation shall be made at
33 publicly noticed open meetings of each advisory council at which members of
34 the public shall be allowed to comment on the draft plan of operation.

35 2. If any water storage during the year is to occur outside of an
36 active management area, to the county board of supervisors for each county in
37 which the storage is to occur. The presentation shall be made at a publicly
38 noticed open meeting of the county board of supervisors at which members of
39 the public shall be allowed to comment on the draft plan of operation.

40 D. The authority may revise the draft plan of operation based on the
41 public comment received.

42 E. An adopted plan of operation shall include all of the following:

43 1. A projection of expenditures for acquiring water.

44 2. A projection of the amount of water to be acquired each month by
45 the authority.

1 3. A projection of the cost of delivering that water through the
2 central Arizona project to a storage facility, including fees for the
3 operation, maintenance, pumping energy and capital costs of the central
4 Arizona project as established by CAWCD.

5 4. A projection of expenditures for water storage **AND LONG-TERM**
6 **STORAGE CREDITS, INCLUDING THE FUNDING SOURCES TO BE USED FOR THOSE**
7 **EXPENDITURES.**

8 5. A projection of water storage permits to be obtained and a
9 projection of with which storage facility permit each water storage permit
10 will be affiliated.

11 6. A projection of the amount of water to be stored, accounted for by
12 active management area, and if water storage will occur outside of an active
13 management area, by groundwater basin or subbasin.

14 7. **A PROJECTION OF THE AMOUNT OF LONG-TERM STORAGE CREDITS TO BE**
15 **PURCHASED BY THE AUTHORITY, ACCOUNTED FOR BY ACTIVE MANAGEMENT AREA.**

16 ~~7-~~ 8. A projection of long-term storage credits that will be
17 distributed or extinguished, accounted for by location where the long-term
18 storage credits were stored, the purpose for which the distribution or
19 extinguishment will occur and the persons to whom the long-term storage
20 credits will be distributed.

21 ~~8-~~ 9. A projection of long-term storage credits that will be stored,
22 loaned, replaced or distributed pursuant to any water banking services
23 agreement into which the authority has entered.

24 ~~9-~~ 10. Any other matter determined to be relevant by the authority.

25 F. The authority may modify an adopted plan of operation.

26 G. The authority shall operate in accordance with its adopted or
27 modified plan of operation.

28 Sec. 6. Section 45-2457, Arizona Revised Statutes, is amended to read:

29 45-2457. Accounting; rules of operation

30 A. The authority shall develop an accounting system for the long-term
31 storage credits accrued **OR PURCHASED** by the authority. The accounting system
32 shall be designed to allow the authority to determine which funding source of
33 the banking fund paid for each long-term storage credit accrued **OR PURCHASED**
34 by the authority.

35 B. The authority shall operate in accordance with all of the following
36 rules of operation:

37 1. The authority shall reserve a reasonable number of long-term
38 storage credits accrued **OR PURCHASED** with general fund appropriations, other
39 than general fund appropriations for replenishment under chapter 15, article
40 3 of this title, for the benefit of municipal and industrial users of
41 Colorado river water in this state that are outside of the service area of
42 CAWCD.

43 2. The authority may distribute long-term storage credits accrued **OR**
44 **PURCHASED** with general fund appropriations, other than general fund
45 appropriations for replenishment under chapter 15, article 3 of this title,
46 for both of the following:

1 (a) To make water available to a municipal and industrial user of
2 Colorado river water in this state that is outside of the service area of
3 CAWCD, if both of the following apply:

4 (i) The municipal and industrial user would otherwise suffer a water
5 shortage. The authority may distribute long-term credits to the extent
6 reasonably necessary to offset the water shortage.

7 (ii) The authority collects reimbursement for the cost to the
8 authority of replacing the long-term storage credits distributed. The
9 authority may replace the long-term storage credits in any year it deems
10 appropriate but shall use good faith efforts to replace the long-term storage
11 credits at a reasonable cost to the person who is responsible for reimbursing
12 the authority for the credits distributed.

13 (b) To make water available to CAWCD to the extent necessary for CAWCD
14 to meet the demands of its municipal and industrial subcontractors, if all of
15 the following apply:

16 (i) CAWCD's normal diversions from the Colorado river have been or
17 will be disrupted by shortages on the river or by disruptions in the
18 operation of the central Arizona project.

19 (ii) The authority does not distribute for this purpose the long-term
20 storage credits reserved in accordance with paragraph 1 **OF THIS SUBSECTION**.

21 (iii) The authority collects reimbursement from CAWCD for the cost to
22 the authority of replacing the long-term storage credits distributed. The
23 authority may replace the long-term storage credits in any year it deems
24 appropriate but shall use good faith efforts to replace the long-term storage
25 credits at a reasonable cost to CAWCD.

26 3. The authority may distribute or extinguish long-term storage
27 credits accrued **OR PURCHASED** with general fund appropriations, other than
28 general fund appropriations for replenishment under chapter 15, article 3 of
29 this title, to implement the settlement of water right claims by Indian
30 communities in this state.

31 4. On request from the director, the authority may extinguish
32 long-term storage credits accrued **OR PURCHASED** with general fund
33 appropriations, other than general fund appropriations for replenishment
34 under chapter 15, article 3 of this title, to fulfill the water management
35 objectives set forth in chapter 2 of this title.

36 5. The authority may exchange long-term storage credits accrued **OR**
37 **PURCHASED** with general fund appropriations for long-term storage credits held
38 by other persons if the long-term storage credits received by the authority
39 were stored in a location that better enables the authority to fulfill the
40 purposes and policies of this chapter than were the long-term storage credits
41 exchanged by the authority. For the purposes of this paragraph, the
42 authority may make exchanges of long-term storage credits stored in one
43 active management area for long-term storage credits stored in a different
44 active management area or of long-term storage credits stored in one
45 groundwater basin for long-term storage credits stored in a different
46 groundwater basin.

1 6. The authority shall distribute or extinguish long-term storage
2 credits accrued **OR PURCHASED** with monies collected in accordance with section
3 45-611, subsection C, paragraph 3 only for the benefit of the active
4 management area in which the monies were collected. The authority may
5 distribute or extinguish these long-term storage credits to the extent
6 necessary to meet the demands of CAWCD's municipal and industrial
7 subcontractors during times in which CAWCD's diversions from the Colorado
8 river have been or will be disrupted by shortages on the Colorado river or by
9 disruptions in operation of the central Arizona project, to implement the
10 settlement of water right claims by Indian communities in this state or, on
11 request from the director, to meet the other water management objectives set
12 forth in chapter 2 of this title. The authority may use the monies collected
13 in the Pinal active management area under section 45-611, subsection C,
14 paragraph 3 to acquire long-term storage credits for replenishment purposes
15 under chapter 15, article 3 of this title.

16 7. The authority shall distribute long-term storage credits accrued **OR**
17 **PURCHASED** with monies deposited in the fund in accordance with section
18 48-3715.03, subsection B only for the benefit of the county in which the
19 monies were collected. The authority shall distribute these long-term
20 storage credits to CAWCD to the extent necessary to meet the demands of
21 CAWCD's municipal and industrial subcontractors during times in which CAWCD's
22 diversions from the Colorado river have been or will be disrupted by
23 shortages on the Colorado river or by disruptions in operation of the central
24 Arizona project.

25 8. For each county within the CAWCD service area, on a determination
26 by the authority that the number of long-term storage credits accrued **OR**
27 **PURCHASED** with monies deposited in the fund in accordance with section
28 48-3715.03, subsection B exceeds the needs specified in paragraph 7 **OF THIS**
29 **SUBSECTION** for that county, the authority shall distribute those excess
30 long-term storage credits to municipal water providers within that county
31 that are at the time of distribution experiencing surface water supply
32 shortages not associated with the central Arizona project. The authority
33 shall distribute to each such municipal water provider the lesser of the
34 following number of long-term storage credits:

35 (a) The total number of credits determined to be available by the
36 authority under this paragraph multiplied by the percentage produced by
37 dividing a numerator equaling the amount of revenues paid pursuant to section
38 48-3715.02, subsections B and C by taxpayers that are within both the
39 boundaries of the municipal provider that is experiencing the shortage and
40 the boundaries of the surface water supply system that is experiencing the
41 shortage by a denominator equaling the total revenues paid pursuant to
42 section 48-3715.02, subsections B and C by all taxpayers that are located
43 within both the boundaries of a municipal water provider and the boundaries
44 of a surface water supply system in the county. In making these
45 computations, the authority shall use the amounts of revenue paid by

1 taxpayers during the most recent tax year for which this information is
2 available.

3 (b) Twenty per cent of the total surface water shortage that the
4 municipal and industrial water provider is experiencing.

5 9. The authority shall distribute or replace long-term storage credits
6 accrued with monies collected pursuant to water banking services agreements
7 in accordance with the terms of those agreements.

8 10. The authority shall acquire sufficient water supplies to perform
9 its replenishment responsibilities under chapter 15, article 3 of this
10 title. The authority shall acquire those water supplies with monies
11 appropriated from the state general fund by the legislature for replenishment
12 under chapter 15, article 3 of this title and to the extent that monies
13 appropriated by the legislature for that purpose are not available, with
14 monies collected in the Pinal active management area under section 45-611,
15 subsection C, paragraph 3. The authority shall use the water supplies
16 acquired pursuant to this paragraph for any replenishment activity authorized
17 by section 45-2623 and for implementation of the southside replenishment bank
18 established by section 45-2624, including delivering water directly to the
19 Gila river Indian community for those purposes.

20 C. Any other long-term storage credits accrued **OR PURCHASED** by the
21 authority may be distributed or extinguished by the authority in accordance
22 with the policy and purposes of this chapter.

23 D. Except as provided by subsection B, paragraph 7 of this section and
24 except as provided by agreements entered into by the authority, the decision
25 to distribute or extinguish any long-term storage credit accrued **OR PURCHASED**
26 by the authority is at the complete discretion of the authority.

27 Sec. 7. Section 45-2491, Arizona Revised Statutes, is amended to read:
28 **45-2491. State commitments to firm Indian settlement water**

29 A. The authority shall act as agent for this state in meeting this
30 state's obligation to deliver water in times of shortage pursuant to Public
31 Law 108-451, fulfilling the requirements of sections 105, 207(c)(I)(ii) and
32 302(b)(8), and the Indian firming measures established pursuant to this
33 article. In carrying out this obligation the authority may:

34 1. Store water at permitted recharge facilities for the purpose of
35 Indian firming.

36 **2. PURCHASE LONG-TERM STORAGE CREDITS FOR THE PURPOSE OF INDIAN**
37 **FIRMING USING THE FUNDING SOURCES IDENTIFIED IN SUBSECTION B OF THIS SECTION**
38 **BUT ONLY AFTER THE AUTHORITY HAS STORED OR SCHEDULED FOR STORAGE ALL**
39 **AVAILABLE EXCESS CENTRAL ARIZONA PROJECT WATER OR WHEN CENTRAL ARIZONA**
40 **PROJECT WATER IS OTHERWISE UNAVAILABLE OR UNDELIVERABLE.**

41 ~~2-~~ 3. Enter into contracts or agreements with the United States and
42 Indian communities for storage, recovery or direct delivery of water for
43 Indian firming.

44 ~~3-~~ 4. Enter into leasing agreements with one or more Indian
45 communities in partnership with other entities for non-Indian agricultural
46 priority or Indian priority central Arizona project water.

1 ~~4.~~ 5. Enter into contracts for the use of water sources including
2 Colorado river water, surface water other than Colorado river water and
3 effluent.
4 ~~5.~~ 6. Enter into contracts with eligible entities for the use of
5 imported groundwater from allowable groundwater basins pursuant to sections
6 45-552, 45-553 and 45-554 for the purposes of Indian firming.
7 ~~6.~~ 7. Enter into agreements with a multi-county water conservation
8 district established pursuant to title 48, chapter 22 for delivery of water
9 to Indian communities.
10 ~~7.~~ 8. Subject to periodic review of progress toward meeting this
11 state's Indian firming obligation, allow for the use of existing long-term
12 storage credits developed from withdrawal fees collected pursuant to section
13 45-611, subsection C, paragraph 3.
14 ~~8.~~ 9. Transfer long-term storage credits to a multi-county water
15 conservation district established pursuant to title 48, chapter 22 for
16 recovery and subsequent delivery to Indian communities in times of shortage.
17 ~~9.~~ 10. Enter into agreements for the recovery of long-term storage
18 credits for purposes of Indian firming.
19 B. Indian firming measures established pursuant to this article shall
20 include funding from the following sources:
21 1. Legislative appropriations provided for Indian firming on an annual
22 basis to carry out Indian firming measures.
23 2. To the extent necessary to carry out Indian firming measures after
24 expenditure of legislative appropriations, the authority may use withdrawal
25 fees collected from the Phoenix, Pinal and Tucson active management area
26 water management accounts.

APPROVED BY THE GOVERNOR APRIL 22, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2014.