

REFERENCE TITLE: natural resource conservation districts;
administration.

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

HB 2596

Introduced by
Representative Toma

AN ACT

AMENDING SECTIONS 37-1002, 37-1011, 37-1012, 37-1013, 37-1014, 37-1036,
37-1054, 37-1302, 45-2103, 45-2106 AND 45-2113, ARIZONA REVISED STATUTES;
APPROPRIATING MONIES; RELATING TO NATURAL RESOURCE CONSERVATION DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 37-1002, Arizona Revised Statutes, is amended to
3 read:

4 37-1002. Definitions

5 In this chapter, unless the context otherwise requires:

6 ~~1. "Agency of the state" includes the government of the state and~~
7 ~~any subdivision, agency or instrumentality, corporate or otherwise, of the~~
8 ~~state government.~~

9 ~~2.~~ 1. "Agricultural lands" means irrigated ~~farm lands~~ FARMLANDS or
10 dry ~~farm lands~~ FARMLANDS THAT ARE devoted to the purpose of agriculture.

11 ~~3.~~ 2. "Commissioner" or "state natural resource conservation
12 commissioner" means the state ~~land commissioner~~ FORESTER.

13 ~~4.~~ 3. "Department" means the ~~state land department~~ ARIZONA
14 DEPARTMENT OF FORESTRY AND FIRE MANAGEMENT.

15 ~~5.~~ 4. "District" means a natural resource conservation district
16 THAT IS organized in accordance with ~~the provisions of~~ this chapter.

17 ~~6.~~ 5. "District cooperator" means any person who has entered into
18 a cooperative agreement with a natural resource conservation district for
19 the purpose of protecting, conserving and practicing wise use of the
20 natural resources under ~~his~~ THAT PERSON'S control.

21 ~~7.~~ 6. "Due notice" means notice THAT IS published at least twice
22 with an interval of at least six days between the two publication dates,
23 in a newspaper of general circulation within the area affected, or if
24 there is no newspaper of general circulation within the area affected, in
25 a newspaper of general circulation in the county in which the area is
26 located.

27 ~~8.~~ 7. "Government" or "governmental" includes the government of
28 ~~the~~ THIS state, the government of the United States, and any subdivision,
29 agency or instrumentality, corporate or otherwise, of either of them.

30 ~~9.~~ 8. "Irrigation district" means an irrigation district, drainage
31 district, water conservation district, ~~OR~~ agricultural improvement
32 district, ~~and, in addition thereto,~~ includes any district, political
33 subdivision, government agency, canal company, association, corporation or
34 instrumentality of ~~the~~ THIS state, having territorial boundaries and
35 created or organized for the purpose of furnishing irrigation water for
36 lands in ~~the~~ THIS state.

37 ~~10.~~ 9. "Landowner" or "owner of land" means any person, firm or
38 corporation, including ~~the~~ THIS state, holding title to any land lying
39 within a district organized or proposed to be organized under ~~the~~
40 ~~provisions of~~ this chapter, and includes a buyer on contract who is the
41 occupant of land. For the purposes of this chapter, a holder of a
42 certificate of purchase or lease from the state shall be considered
43 the ~~"landowner"~~ or ~~"owner of land"~~.

44 ~~11.~~ 10. "Nominating petition" means a petition to nominate
45 candidates for the office of supervisor.

~~12.~~ 11. "Petition" means a petition for the creation or for the dissolution of a district.

~~13.~~ 12. "Qualified elector" means a person who is a district cooperator and a qualified elector of ~~the~~ THIS state.

~~14.~~ 13. "~~Range lands~~ RANGELAND" means lands other than agricultural lands ~~and~~ THAT ARE devoted principally to the purpose of grazing livestock.

~~15.~~ 14. "Supervisor" means a member of the governing body of a district, elected or appointed in accordance with ~~the provisions of~~ this chapter.

~~16.~~ 15. "United States" or "agencies of the United States" includes the United States, the United States department of agriculture and any other agency or instrumentality, corporate or otherwise, of the United States.

Sec. 2. Section 37-1011, Arizona Revised Statutes, is amended to read:

37-1011. Division of natural resource conservation

For the purpose of administering this chapter, ~~there shall be a division of the state land department which shall be known as~~ the division of natural resource conservation IS ESTABLISHED IN THE ARIZONA DEPARTMENT OF FORESTRY AND FIRE MANAGEMENT under the authority and direction of the state natural resource conservation commissioner.

Sec. 3. Section 37-1012, Arizona Revised Statutes, is amended to read:

37-1012. State natural resource conservation commissioner

A. The state ~~land commissioner shall be~~ FORESTER IS THE state natural resource conservation commissioner. ~~He~~ AND shall serve as such without additional compensation.

B. The commissioner may appoint an administrative officer of the division of natural resource conservation, a secretary and ~~such~~ other assistants as may be required, assign their duties, define their powers and determine the amount of bond required of any assistant entrusted with funds or property. The compensation of all ~~such~~ assistants shall be as determined pursuant to section 38-611.

C. The commissioner shall adopt a seal, which shall be judicially noticed, and shall hold ~~such~~ public hearings, provide for the keeping of a record of all proceedings and annual records of district operations, ~~promulgate such~~ ADOPT orders, ~~AND~~ rules ~~and regulations~~ and perform such other acts as are necessary to carry out ~~the provisions of~~ this chapter.

Sec. 4. Section 37-1013, Arizona Revised Statutes, is amended to read:

37-1013. Powers and duties of commissioner

A. The state natural resource conservation commissioner shall:

1. Offer appropriate assistance to the supervisors of districts in carrying out their powers and programs.

2. Keep the supervisors of each district informed of the activities and experiences of other districts, ~~and~~ and facilitate cooperation and interchange of advice and experience between districts.

3. Coordinate the programs of the several districts insofar as possible by advice and consultation.

4. Require the supervisors of each district to file with the commissioner annually any audits and the records of the operations of the district for the preceding year in the form and detail as the commissioner prescribes.

5. Secure the cooperation and assistance of the United States, its agencies and agencies of this state, in the work of districts as local units of state government with special expertise concerning land, soil, water and natural resources management within the boundaries of the district, as the commissioner deems for the best interest of the state.

6. Disseminate information throughout the state concerning the activities and program of districts.

7. Provide staff support to the Arizona water protection fund commission established by title 45, chapter 12 and provide administrative assistance to natural resource conservation districts for compliance with the duties for districts pursuant to title 45, chapter 12.

8. PUBLICLY RECOGNIZE WATER CONSERVATION MEASURES OR WATER CONSERVATION PROJECTS IN THIS STATE, INCLUDING WATERSHED IMPROVEMENT OR PROTECTION PROGRAMS.

9. PROMOTE TO THE PUBLIC THIS STATE'S WATER-RELATED ADVANCEMENTS AND THEIR EFFECT ON WATERSHEDS, FOREST HEALTH, MULTIPLE USES AND STORMWATER RUNOFF PROTECTION PROGRAMS.

B. The commissioner may remove a district supervisor from office if the commissioner determines, after reasonable notice and an impartial hearing, that the supervisor is guilty of misfeasance, malfeasance or nonfeasance in office. For the purposes of this subsection, "nonfeasance" includes the failure to attend three consecutive meetings of district supervisors without reasonable excuse.

Sec. 5. Section 37-1014, Arizona Revised Statutes, is amended to read:

37-1014. State financial assistance; application; criteria

A. The commissioner shall include in the annual ~~state~~ ~~land~~ department budget request a sum of not more than forty thousand dollars for each district and sixty thousand dollars for each education center for distribution by the commissioner to those natural resource conservation districts that have applied for, have met the criteria for and have been approved for receiving state financial assistance, as provided in this section.

B. Any district or education center desiring to receive state financial assistance for the next ensuing fiscal year shall apply to the

commissioner not later than June 20, on a form supplied by the division of natural resource conservation. Each application shall include:

1. The number of acres of land lying within the district.
2. The extent of conservation programs or education center programs proposed to be undertaken during the fiscal year for which the financial assistance is being requested.
3. Any audits that are requested by the commissioner.

C. On receipt of the application, the commissioner shall determine whether ~~or not~~ such ~~funds~~ MONIES for the district or education center will be included in the budget request for the ~~state land~~ department and shall promptly notify the district OR EDUCATION CENTER of that determination.

Sec. 6. Section 37-1036, Arizona Revised Statutes, is amended to read:

37-1036. Proceedings to organize district; certificate of organization

A. A district shall be organized and shall be a body corporate ~~upon~~ ON taking the following steps:

1. The supervisors elected as provided in section 37-1035 shall present to the secretary of state an application, signed and acknowledged by each supervisor, setting forth:

(a) That a petition for the creation of the district was approved by the commissioner pursuant to ~~the provisions of~~ this chapter.

(b) The name and official residence of each supervisor, ~~and~~ and a certified copy of their notification of election.

(c) The name proposed for the district.

(d) The location of the proposed office of the supervisors of the district.

2. The application shall be accompanied by a certificate of the commissioner ~~which shall set~~ SETTING forth:

(a) The boundaries of the district as determined by ~~him~~ THE COMMISSIONER.

(b) That a petition was filed, notice WAS issued and a hearing WAS held as prescribed by law.

(c) That for a district to function in the proposed territory was determined by the commissioner to be in the public interest.

(d) That notice was given and a referendum on the question of the creation of the district and an election of supervisors were held.

(e) That the results of the referendum showed not less than sixty-five ~~per cent~~ PERCENT of the votes cast, representing not less than fifty ~~per cent~~ PERCENT of the owners of land, to be in favor of the creation of the district.

(f) That the supervisors signing the application are the duly elected supervisors of the district.

3. The secretary of state shall examine the application and statement and, if ~~he~~ THE SECRETARY OF STATE finds that the name proposed

1 for the district is not identical with or so similar to that of any other
 2 district as to lead to confusion, ~~he~~ THE SECRETARY OF STATE shall record
 3 them. If the name proposed is identical with or so similar to another
 4 district as to lead to confusion, ~~he~~ THE SECRETARY OF STATE shall certify
 5 that fact to the commissioner, who shall submit another name. ~~upon~~ ON
 6 receipt of a new name, free from defects, the secretary of state shall
 7 record the application and statement.

8 B. The secretary of state shall issue to the supervisors a
 9 certificate, under the seal of the state, certifying the organization of
 10 the district, ~~and~~ SHALL record the certificate with the application and
 11 statement. The district ~~shall include~~ INCLUDES the territory as
 12 determined by the commissioner, ~~but it shall~~ DOES not include any area
 13 within the boundaries of another district, ~~nor shall it~~ AND DOES NOT
 14 include any area, land or property of or lands held under certificate of
 15 purchase or lease from ~~the~~ THIS state by any person or persons, ~~which IF~~
 16 THE area, land, property or leaseholds lie within the geographical limits
 17 of such A district but the owners or holders of certificates of purchase
 18 or lessees of which do not desire to ~~come within~~ JOIN the district.

19 C. In any action or proceeding involving the validity or
 20 enforcement of, or relating to, any contract, proceeding or action of the
 21 district, the district ~~shall be~~ IS deemed to ~~have been~~ BE established in
 22 accordance with ~~the provisions of~~ this chapter ~~upon~~ ON proof of the
 23 issuance of the certificate of organization by the secretary of state. A
 24 copy of the certificate certified by the secretary of state ~~shall be~~ IS
 25 admissible in evidence in any action or proceeding, ~~and shall be~~ IS proof
 26 of the filing and contents thereof. In like manner, any district
 27 combined, ~~and consolidated with an adjacent district or districts,~~ and
 28 reorganized and renamed ~~prior to the date of this section shall be~~ BEFORE
 29 JUNE 20, 1968 IS deemed to ~~have been~~ BE established ~~upon~~ ON proof of
 30 certifications and official maps filed with the secretary of state by the
 31 division of natural resource conservation of the ~~state land~~ department.

32 D. The commissioner shall appoint two supervisors from a panel of
 33 candidates compiled by the elected supervisors and presented by the
 34 temporary chairman of the elected supervisors. Candidates for the office
 35 of appointed supervisors shall be qualified electors of the state.
 36 Appointed supervisors shall continue to serve until May 31 of the next
 37 even-numbered year or until their successors are otherwise appointed.

38 Sec. 7. Section 37-1054, Arizona Revised Statutes, is amended to
 39 read:

40 37-1054. Powers of district

41 A. This state recognizes the special expertise of the districts in
 42 the fields of land, soil, water and natural resources management within
 43 the boundaries of the district. A district is empowered to:

44 1. Conduct surveys, investigations and research relating to the
 45 character of the soil, soil erosion prevention within a farm or ranch,

1 methods of cultivation, farm and range practices, seeding, eradication of
2 noxious growths and any other measures that will aid farm and range
3 operations, disseminate information pertaining thereto, and carry on
4 research programs with or without the cooperation of this state or its
5 agencies or the United States or its agencies.

6 2. Conduct demonstration projects within the district on lands
7 owned or controlled by the state or any of its agencies with the consent
8 and cooperation of the agency having jurisdiction of the land, and on any
9 other lands within the district on obtaining the consent of the landowner
10 or the necessary rights or interests in the land, in order to demonstrate
11 by example the means, methods and measures by which water, soil and soil
12 resources may be conserved and soil erosion and soil washing may be
13 prevented and controlled.

14 3. Cooperate and enter into agreements with a landowner, an
15 operator or any agency or subdivision of the state or federal government
16 to carry on programs of watershed improvement, soil erosion prevention,
17 methods of cultivation, cropping practices, land leveling and improvement
18 on agricultural lands, and programs limited to methods of proper range
19 use, reseeding and the eradication of noxious growth on grazing lands, all
20 within the limits of an individual farm or ranch and subject to the
21 conditions the supervisors deem necessary.

22 4. Acquire, by purchase, exchange, lease or otherwise, any
23 property, real or personal, or rights or interest in any property,
24 maintain, administer and improve any properties acquired, receive income
25 from any property or right or interest in property and expend it in
26 carrying out the purposes of this chapter, and sell, lease or otherwise
27 dispose of any property or interest in property in furtherance of the
28 purposes of this chapter.

29 5. Make available, on the terms it prescribes to landowners within
30 the district, agricultural and engineering machinery and equipment,
31 fertilizer, seed and other material or equipment as will assist the
32 landowners to carry on operations on their lands for the purposes and
33 programs authorized by this chapter.

34 6. Develop, publish and bring to the attention of landowners within
35 the district comprehensive plans for the conservation of soil and water
36 resources within the district that specify in such detail as may be
37 feasible the acts, procedures, performances and avoidances necessary or
38 desirable for the effectuation of the plans.

39 7. Apply for, receive and spend monies from the Arizona water
40 protection fund pursuant to title 45, chapter 12 to be used in individual
41 districts or in cooperation with other districts, persons, cities, towns,
42 counties, special districts and Indian communities for projects consistent
43 with title 45, chapter 12.

44 8. Employ agents, engineers, attorneys or other employees not
45 readily available from existing state agencies.

1 9. Sue and be sued in the name of the district, have a seal, which
2 shall be judicially noticed, have perpetual succession unless terminated
3 as provided in this chapter, make and execute contracts and other
4 instruments necessary or convenient to the exercise of its powers and
5 make, amend and repeal rules not inconsistent with this chapter to carry
6 into effect its purposes and powers.

7 10. Accept donations, gifts and contributions in money, services,
8 materials or otherwise, and use or expend them in carrying on its
9 operations.

10 11. Organize and establish an education center to increase the
11 knowledge of natural resources in this state through the following
12 methods:

13 (a) Offering technical guidance and training to agricultural
14 producers.

15 (b) Publishing scholarly materials.

16 (c) Providing educational and training opportunities, both inside
17 and outside of the district.

18 (d) Conducting or sponsoring scientific studies that affect natural
19 resources in this state.

20 B. A provision of law with respect to the acquisition, operation or
21 disposition of property by other public bodies shall not be applicable to
22 a district organized under this chapter unless specifically stated
23 therein.

24 C. After the formation of any district under this chapter, all
25 participation thereunder shall be voluntary, notwithstanding any provision
26 of this chapter to the contrary.

27 D. A district may send to the Arizona water protection fund
28 commission established by title 45, chapter 12 written recommendations for
29 geographic areas to be emphasized, issues of concern and measures to
30 implement title 45, chapter 12. A district that sends written
31 recommendations to the commission shall request information from at least
32 the following:

33 1. The director of the department of water resources, THE STATE
34 FORESTER and the state land commissioner.

35 2. The federal and state fish, wildlife, recreation and natural
36 resource agencies.

37 3. County and municipal entities.

38 4. The public.

39 E. The district shall develop procedures to ensure adequate
40 participation in the public involvement process prescribed by subsection D
41 of this section.

1 Sec. 8. Section 37-1302, Arizona Revised Statutes, is amended to
2 read:

3 37-1302. Powers and duties of state forester; rules;
4 legislative presentation; acceptance of federal
5 law

6 A. The state forester is designated as the agent of ~~the~~ THIS state
7 ~~of Arizona~~ and shall administer this chapter. The state forester shall:

8 1. Exercise and perform all powers and duties vested in or imposed
9 on the Arizona department of forestry and fire management.

10 2. Adopt rules necessary to discharge the powers and duties of the
11 Arizona department of forestry and fire management, including rules that
12 create efficiencies, protect the public health and safety and prescribe
13 budgetary obligations.

14 3. Subject to title 41, chapter 4, article 4, appoint an assistant
15 director to the office of the state fire marshal, a state fire training
16 officer and a state fire resource coordinator, all of whom serve at the
17 pleasure of the state forester.

18 4. Subject to title 41, chapter 4, article 4, employ, determine the
19 terms and conditions of employment of and prescribe the duties and powers
20 of administrative, professional, technical, secretarial, clerical and
21 other persons as may be necessary in the performance of the Arizona
22 department of forestry and fire management's duties. The compensation of
23 department employees shall be as determined pursuant to section 38-611.

24 5. Contract for the services of outside advisors, consultants and
25 aides as may be reasonably necessary.

26 6. Perform all management and administrative functions assigned or
27 delegated to this state by the United States relating to forestry and
28 financial assistance and grants relating to forestry.

29 7. Identify sources of information relating to forest management,
30 including wildfire prevention, mitigation, suppression and recovery and
31 administrative and judicial appeals and litigation with respect to timber
32 sales and forest thinning projects in this state, and develop procedures
33 for compiling and distributing that information.

34 8. Take necessary action to maximize state fire assistance grants,
35 including establishing timelines for using grant monies and reallocating
36 lapsed grant monies to other projects.

37 9. Conduct education and outreach in forest communities by
38 explaining the wildfire threat to private property caused by the lack of
39 timber harvesting, forest thinning, land management and watershed
40 protection and enhancement.

41 10. Monitor and conduct forestry projects and wildfire prevention,
42 mitigation and suppression activities.

43 11. Assist in the development of the forestry products industry in
44 this state.

12. Intervene on behalf of this state and its citizens in administrative and judicial appeals and litigation that challenge governmental efforts supported by the state forester if the state forester determines that intervention is in the best interests of this state.

13. Annually develop and implement a comprehensive statewide wildfire response plan for the deployment of state, county, municipal, fire district, volunteer fire association and private fire service provider contract resources to wildfire suppression activities. The statewide wildfire response plan shall take into account anticipated fire conditions and fire severity and may include prepositioning resources as necessary. The state forester shall consult with federal land management firefighting agencies, state and county emergency agencies, municipal fire departments, fire districts, statewide fire district and statewide fire chiefs associations, volunteer fire departments and private fire contractors in the development of the comprehensive statewide wildfire response plan, the implementation of standards for training and certification for all classes of wildland fire and hazard personnel and the implementation of standards for wildland fire apparatus and equipment that are deployed under cooperative agreements with the state forester.

14. Provide necessary oversight to ensure standardized training and certification for all classifications of firefighters to be deployed to any incident.

15. Develop recommendations for minimum standards for safeguarding life and property from wildland fires and fire hazards, preventing wildland fires and alleviating fire hazards.

16. Develop recommendations for minimum standards for the storage, sale, distribution and use of dangerous chemicals, combustibles, flammable liquids, explosives and radioactive materials in wildland-urban interface areas.

17. Consult with the department of public safety, the department of emergency and military affairs and local governments regarding the establishment of fire evacuation routes and community alert systems.

18. Make recommendations for minimum standards for the creation of defensible spaces in and around wildland-urban interface areas as authorized by existing county and municipal laws and ordinances.

19. SERVE AS THE STATE NATURAL RESOURCE CONSERVATION COMMISSIONER PURSUANT TO SECTION 37-1012.

B. During the first regular session of each legislature, the state forester shall present information to the legislative committees with jurisdiction over forestry issues. The state forester shall collaborate with, and invite the participation of, relevant state, federal and local governmental officers and agencies. A written report is not required, but the presentation shall include information concerning:

1. Forestry management, including the current conditions of the forests in this state on federal, state and private property as affected

1 by federal, state and local public policies, climatic conditions, wildfire
2 hazards, pest infestations, overgrowth and overgrowth control policies and
3 methods and the effects of current federal policy on forest management and
4 impacts on forest land management.

5 2. The wildland-urban interface, including the effects of county
6 and municipal zoning policies and wildfire hazards on public and private
7 property.

8 3. Wildfire emergency management and all hazard response issues,
9 including:

10 (a) Intergovernmental and interagency primacy, cooperation,
11 coordination, roles and training of federal, state and local forestry,
12 firefighting and law enforcement agencies.

13 (b) Channels and methods of communicating emergency information to
14 the public.

15 (c) The roles of governmental and nongovernmental disaster relief
16 agencies and organizations.

17 (d) The level of federal, state and local emergency funding.

18 C. The state forester may:

19 1. Furnish technical advice to the people of this state on forestry
20 and land management matters.

21 2. Do all other acts necessary to take advantage of and carry out
22 the provisions of the act of Congress described in subsection D of this
23 section.

24 D. This state accepts the provisions of the cooperative forestry
25 assistance act of 1978 (P.L. 95-313; 92 Stat. 365; 16 United States Code
26 chapter 41) providing for federal forestry assistance programs to states.

27 Sec. 9. Section 45-2103, Arizona Revised Statutes, is amended to
28 read:

29 45-2103. Arizona water protection fund commission

30 A. The Arizona water protection fund commission is established and
31 consists of two ex officio members, two advisory members and nine
32 appointed members who are residents of this state, who have demonstrated
33 an interest in natural resources and who are appointed as follows:

34 1. One person who represents a multi-county water conservation
35 district established pursuant to title 48, chapter 22 and named by that
36 district's governing board.

37 2. One person who represents a state association of natural
38 resource conservation districts and who is appointed by the governor.

39 3. Four persons who represent natural resource conservation
40 districts established pursuant to title 37, chapter 6, and who represent
41 geographically diverse areas of this state, two of whom shall be appointed
42 by the president of the senate and two of whom are appointed by the
43 speaker of the house of representatives.

1 4. One member of the public who has at least a bachelor's degree in
2 hydrology, who represents a city that is served by the central Arizona
3 project and who is appointed by the governor.

4 5. One person who is knowledgeable in natural resource conservation
5 issues or in water resource issues related to riparian ecosystems, who
6 represents an agricultural improvement district established pursuant to
7 title 48, chapter 17 and who is appointed by the governor.

8 6. One person who represents an Indian tribe and who is appointed
9 by the chairman of the ~~intertribal~~ INTER TRIBAL council of Arizona.

10 7. As nonvoting ex officio members, the director of the department
11 of water resources, THE STATE FORESTER and the state land commissioner.

12 8. As nonvoting advisory members, one member of the house of
13 representatives who is appointed by the speaker of the house of
14 representatives and one member of the senate who is appointed by the
15 president of the senate. Advisory members may not be considered for
16 purposes of establishing a quorum.

17 B. Members of the commission appointed pursuant to subsection A,
18 paragraphs 1 through 6 of this section shall be appointed for staggered
19 terms of three years. A member may serve more than one term and may
20 continue to serve beyond the expiration of the term until a successor is
21 appointed and assumes office.

22 C. On request, members who are not ex officio members of the
23 commission are eligible to receive compensation pursuant to section
24 38-611, not to exceed three thousand dollars in any calendar year, and are
25 eligible for reimbursement for expenses pursuant to title 38, chapter 4,
26 article 2.

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

29 Sec. 10. Section 45-2106, Arizona Revised Statutes, is amended to
30 read:

31 45-2106. Public involvement

32 A. The commission is subject to ~~the provisions of~~ title 38, chapter
33 3, article 3.1 and title 39, chapter 1.

34 B. The commission shall develop and may amend the guidelines for
35 applicants required by section 45-2105 after reviewing the recommendations
36 submitted by the natural resource conservation districts developed
37 pursuant to section 37-1054, subsections D and E and the information
38 gathered during the public involvement process.

39 C. The commission shall gather information from the following:

40 1. The director of the department of water resources, THE STATE
41 FORESTER and the state land commissioner.

42 2. The federal and state fish, wildlife, recreation and natural
43 resource agencies.

44 3. County and municipal entities.

45 4. The public.

1 D. The commission shall develop procedures to ~~assure~~ ENSURE
 2 adequate public participation. At a minimum, public participation
 3 procedures shall prescribe public notice requirements including the
 4 content and publication of the notice, provide an opportunity for public
 5 hearings and specify the procedures governing the hearings and require the
 6 public availability of relevant documents. Public hearings shall be held
 7 at places and times ~~which~~ THAT afford a reasonable opportunity to persons
 8 to participate.

9 E. The commission shall make available for viewing copies of the
 10 recommendations and supporting documents submitted pursuant to this
 11 section and may charge a reasonable fee for copying.

12 Sec. 11. Section 45-2113, Arizona Revised Statutes, is amended to
 13 read:

14 45-2113. Fund grants; applications

15 A. The commission shall grant monies from the fund consistent with
 16 the application guidelines developed pursuant to section 45-2105. The
 17 commission shall establish a procedure by which monies may be granted
 18 annually ~~which shall include~~ THAT INCLUDES a maximum of six months between
 19 the receipt of the proposal by the commission and the disbursement of
 20 monies. The commission shall give priority in funding to the following:

21 1. Projects for which matching monies or assets of comparable
 22 value, including in-kind contributions, will be provided by other sources.
 23 2. Projects that provide for the continued maintenance of the
 24 portion of the river and stream and associated riparian habitat that are
 25 enhanced by the project.

26 3. Projects that include ~~broad-based~~ BROAD-BASED local involvement.
 27 4. Projects that directly benefit perennial or intermittent rivers
 28 or streams or that otherwise increase the supply of water.

29 B. The commission shall require as a condition of approval of any
 30 proposal all of the following provisions:

31 1. Allowing access for inspection and evaluation of the project.
 32 2. Controlling the expenditure of and accounting for any monies
 33 granted by the commission
 34 3. Requiring that those persons responsible for the project submit
 35 all pertinent information and research gained from the project to the
 36 commission.

37 4. Requiring that any person receiving a grant spend no more than
 38 five percent of the grant on costs of administration.

39 C. The commission shall provide for public involvement regarding
 40 the applications submitted to the commission, which shall include notice
 41 to any person who requests notice of applications and which shall provide
 42 a reasonable opportunity for comment on the application ~~which shall~~ THAT
 43 IS not ~~be~~ less than forty-five days.

44 D. On receipt of an application the commission shall notify cities,
 45 towns, counties, natural resource conservation districts, special

1 districts and Indian communities affected by the proposal and shall
2 provide a reasonable opportunity for comment on the application ~~which~~
3 ~~shall~~ **THAT IS** not ~~be~~ less than forty-five days.

4 E. Any person, state agency or political subdivision of this state
5 may submit a request for funding from the fund for purposes prescribed by
6 this section. A federal agency is not eligible for funding from the fund.
7 Requests for funding shall be made to the commission. Requests for
8 funding submitted to the commission may be accompanied by expressions of
9 support from affected cities, towns, counties, natural resource
10 conservation districts, special districts or Indian communities.

11 F. As a condition of approval by the commission, the applicant
12 shall commit to work jointly with the affected cities, towns, counties,
13 natural resource conservation districts, special districts and Indian
14 communities that have contacted the commission pursuant to subsection D of
15 this section on all aspects of the proposal's implementation and
16 monitoring, unless the jurisdiction chooses not to participate.

17 G. Monies in the fund may only be spent to finance programs located
18 in this state.

19 H. Monies in the fund may be spent for any of the following:

20 1. Granting monies to entities for the acquisition of central
21 Arizona project water or effluent that will protect or restore rivers or
22 streams consistent with state water law. ~~NO~~ **AN** entity may **NOT** exercise
23 the right of eminent domain to acquire water or water rights using monies
24 derived from this fund.

25 2. Granting monies to assist in developing, promoting and
26 implementing water conservation programs, ~~THAT ARE~~ **THAT ARE** directly related to
27 the purposes of this chapter, ~~outside of the active management areas.~~

28 3. Granting monies in support of research and data collection,
29 compilation and analysis **THAT ARE** directly related to the purposes of this
30 chapter, except that no more than five percent of the monies deposited in
31 the fund in any fiscal year may be spent for this purpose. Before the
32 approval of any such project, the commission shall consult with the
33 department of water resources, **THE ARIZONA DEPARTMENT OF FORESTRY AND FIRE**
34 **MANAGEMENT** and the state land department to determine whether any research
35 of a similar nature has been or is in the process of being performed and
36 is already available. The commission shall not approve a proposal if
37 either department determines that sufficient data exists and notifies the
38 commission in writing.

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

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

2 1. Any project that includes the planting of mesquite, tamarisk or
3 other nonnative high water usage trees that consume water to a degree that
4 is detrimental to water conservation efforts, but may be used for removal
5 of mesquite, tamarisk or other nonnative high water usage trees that
6 consume water to a degree that is detrimental to water conservation
7 efforts.

8 2. Any remedial action purposes undertaken pursuant to the
9 comprehensive environmental response, compensation, and liability act of
10 1980, as amended (P.L. 96-510; 94 Stat. 2767; 42 United States Code
11 section 9601) or title 49, chapter 2, article 5.

12 Sec. 12. Transfer; effect; succession

13 A. All matters, including contracts, orders and judicial or
14 quasi-judicial actions, whether completed or pending, of the state land
15 department relating to natural resource conservation districts are
16 transferred, on the effective date of this act, and maintain the same
17 status with the Arizona department of forestry and fire management.

18 B. Rules adopted by the state land department relating to natural
19 resource conservation districts are effective until superseded by rules
20 adopted by the Arizona department of forestry and fire management.

21 C. All personnel, property and records, all data and investigative
22 findings, all obligations and all appropriated monies remaining unspent
23 and unencumbered of the state land department relating to natural resource
24 conservation districts are transferred to the Arizona department of
25 forestry and fire management and may be used for the purposes of this act.

26 Sec. 13. Effective date

27 This act is effective from and after _____, 2019.