

Senate Engrossed

environmental quality; program terminations; repeal

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 69

SENATE BILL 1370

AN ACT

AMENDING SECTIONS 27-514 AND 27-515, ARIZONA REVISED STATUTES; REPEALING SECTIONS 41-3022.09 AND 41-3022.24, ARIZONA REVISED STATUTES; AMENDING SECTION 49-186, ARIZONA REVISED STATUTES; REPEALING SECTION 49-238, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 2, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 49-360; AMENDING SECTION 49-455, ARIZONA REVISED STATUTES; RELATING TO ENVIRONMENTAL QUALITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 27-514, Arizona Revised Statutes, is amended to
3 read:

4 27-514. Commission; appointment; terms; compensation

5 A. ~~There is created an~~ THE oil and gas conservation commission IS
6 ESTABLISHED IN THE DEPARTMENT OF ENVIRONMENTAL QUALITY. THE DEPARTMENT OF
7 ENVIRONMENTAL QUALITY SHALL PROVIDE STAFF SUPPORT TO THE COMMISSION TO
8 ADMINISTER THIS CHAPTER.

9 B. The commission shall consist of the state land commissioner ex
10 officio who shall have no vote, and five members to be appointed by the
11 governor, ~~no~~ NOT more than three of whom shall be of the same political
12 party. The appointive members shall be United States citizens and shall
13 have been residents of ~~Arizona~~ THIS STATE for not less than the five years
14 immediately preceding their appointment. Three members of the commission
15 shall constitute a quorum for the transaction of business.

16 C. ~~Of the members first appointed, one shall be appointed for a~~
17 ~~term ending December 31, 1960, and one each for terms ending one, two,~~
18 ~~three and four years thereafter. Subsequent~~ Appointments shall be for a
19 full term of five years ~~which shall~~ AND expire on the third Monday in
20 January in the appropriate year.

21 D. Appointive members of the commission shall receive compensation
22 as determined pursuant to section 38-611 for each day actually spent in
23 the performance of official duties.

24 Sec. 2. Section 27-515, Arizona Revised Statutes, is amended to
25 read:

26 27-515. Administration; powers of the commission; fees

27 A. The commission shall administer and enforce this article and
28 other laws relating to conservation of oil and gas. The commission and
29 administrative staff, at any time, may enter property and inspect wells
30 drilled for oil or gas, and well records, and shall control property,
31 machinery and appliances necessary to gauge the wells. ~~The department of~~
32 ~~environmental quality shall provide staff support to the commission to~~
33 ~~administer this chapter.~~

34 B. The commission may:

35 1. Administer oaths to a witness in any hearing, investigation or
36 proceeding held under this article or any other law relating to
37 conservation of oil and gas.

38 2. Issue subpoenas requiring attendance and testimony of witnesses
39 and production of books, papers and records deemed material or necessary,
40 and direct service of subpoenas by a sheriff or other officer authorized
41 by law to serve process.

42 3. Prescribe rules and do all acts necessary or advisable to carry
43 out this article.

44 4. Collect fees to cover the costs of services, including
45 reproduction of records or any portion of records and copies of rules.

1 The monies collected are not subject to section 27-523 but shall be
2 deposited, pursuant to sections 35-146 and 35-147, by the commission in
3 the fund from which the expenditure was originally made.

4 5. Publish technical maps, cross sections and reports and sell
5 these materials for fees that will cover the costs incurred in their
6 preparation, reproduction and distribution.

7 C. The commission may enter into cooperative agreements with
8 agencies of the United States government, with agencies of state or local
9 government or with Indian tribes ~~for the purpose of protection of~~ **T0**
10 **PROTECT** the fresh water supplies of this state from contamination or
11 pollution brought about by the drilling of any well or for any other
12 purpose of this article.

13 D. The commission may apply for and accept gifts, devises and
14 donations of books, well records, maps or other materials. All donated
15 materials shall become public records.

16 E. Monies collected under subsection B, paragraph 5 of this section
17 are not subject to section 27-523 but shall be deposited, pursuant to
18 sections 35-146 and 35-147, in the permit administration fund established
19 by section 49-455 and shall be used to prepare, reproduce and distribute
20 further publications.

21 Sec. 3. Repeal

22 Sections **41-3022.09** and **41-3022.24**, Arizona Revised Statutes, are
23 repealed.

24 Sec. 4. Section 49-186, Arizona Revised Statutes, is amended to
25 read:

26 **49-186. Rules; no licensing**

27 A. The department shall adopt rules as necessary to implement
28 section 49-179. The adoption of rules under this section is not a
29 prerequisite for implementation of this article.

30 ~~B. The program established by this article ends on July 1, 2020~~
31 ~~pursuant to section 41-3102.~~

32 ~~C. B.~~ B. Title 41, chapter 6, article 7.1 and section 41-1009 do not
33 apply to this article.

34 Sec. 5. Repeal

35 Section **49-238**, Arizona Revised Statutes, is repealed.

36 Sec 6. Title 49, chapter 2, article 9, Arizona Revised Statutes, is
37 amended by adding section 49-360, to read:

38 **49-360. Monitoring assistance program for public water**
39 **systems; fees; monitoring assistance fund; safe**
40 **drinking water program fund; rules**

41 **A. THE DEPARTMENT SHALL ESTABLISH A MONITORING ASSISTANCE PROGRAM**
42 **TO ASSIST PUBLIC WATER SYSTEMS IN COMPLYING WITH MONITORING REQUIREMENTS**
43 **UNDER THE FEDERAL SAFE DRINKING WATER ACT (P.L. 93-523; 88 STAT. 1660;**
44 **P.L. 95-190; 91 STAT. 1393; P.L. 104-182; 110 STAT. 1613; 42 UNITED STATES**
45 **CODE SECTIONS 300F THROUGH 300j-25), AS AMENDED. THE PROGRAM SHALL**

1 PROVIDE FOR THE COLLECTION, TRANSPORTATION AND ANALYSIS OF BASELINE
2 SAMPLES FROM PUBLIC WATER SYSTEMS IN A FREQUENCY SUFFICIENT TO KEEP THE
3 SYSTEMS IN COMPLIANCE WITH THE FEDERAL SAFE DRINKING WATER ACT
4 REQUIREMENTS. AT A MINIMUM, THE PROGRAM SHALL INCLUDE MONITORING FOR THE
5 FOLLOWING CATEGORIES OF CONTAMINANTS:

- 6 1. VOLATILE ORGANIC CHEMICALS.
- 7 2. SYNTHETIC ORGANIC CHEMICALS.
- 8 3. INORGANIC CHEMICALS EXCEPT FOR COPPER AND LEAD.
- 9 4. RADIOCHEMICALS.

10 B. THE DEPARTMENT SHALL CONTRACT WITH ONE OR MORE PRIVATE PARTIES
11 OR STATEWIDE NONPROFIT ORGANIZATIONS REPRESENTING WATER SYSTEMS TO
12 IMPLEMENT THE MONITORING ASSISTANCE PROGRAM SUBJECT TO AVAILABLE FUNDING.
13 CONTRACTS SHALL BE AWARDED FOR UP TO THREE YEARS. ENTITIES WITH WHICH THE
14 DEPARTMENT CONTRACTS SHALL:

- 15 1. PROVIDE UPDATED MONITORING SCHEDULES, DEVELOPED IN CONJUNCTION
16 WITH THE DEPARTMENT, TO PARTICIPATING WATER SYSTEMS.
- 17 2. TAKE SAMPLES FOR PARTICIPATING WATER SYSTEMS, ALLOW FOR
18 CERTIFIED OPERATORS TO TAKE SAMPLES AND TRAIN SYSTEM PERSONNEL TO TAKE
19 SAMPLES.
- 20 3. ASSIST PARTICIPATING WATER SYSTEMS WHEN RESAMPLING IS REQUIRED
21 BY THE FEDERAL SAFE DRINKING WATER ACT.
- 22 4. ASSIST PARTICIPATING WATER SYSTEMS TO APPLY FOR AND QUALIFY FOR
23 AVAILABLE INTERIM MONITORING RELIEF AND WAIVERS.
- 24 5. PROVIDE ANY OTHER ON-SITE TECHNICAL ASSISTANCE NECESSARY TO HELP
25 THE PARTICIPATING WATER SYSTEMS COMPLY WITH THE MONITORING REQUIREMENTS OF
26 THE FEDERAL SAFE DRINKING WATER ACT.

27 C. ANY PUBLIC WATER SYSTEMS SERVING MORE THAN TEN THOUSAND PERSONS
28 MAY ELECT TO PARTICIPATE IN THE MONITORING ASSISTANCE PROGRAM SUBJECT TO
29 THE PAYMENT OF THE FEES PURSUANT TO SUBSECTION F OF THIS SECTION.

30 D. THE DEPARTMENT SHALL USE LICENSED ENVIRONMENTAL LABORATORIES AS
31 DEFINED IN SECTION 36-495 OR LABORATORIES CERTIFIED OR DESIGNATED BY THE
32 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY TO ANALYZE SAMPLES COLLECTED
33 UNDER THE MONITORING ASSISTANCE PROGRAM. THE DEPARTMENT SHALL ESTABLISH
34 SPECIFIC CRITERIA FOR MEASURING CONTRACTOR QUALIFICATIONS AND PERFORMANCE.

35 E. EACH ENVIRONMENTAL LABORATORY THAT THE DEPARTMENT USES PURSUANT
36 TO SUBSECTION D OF THIS SECTION SHALL DELIVER COPIES OF THE ANALYSIS
37 RESULTS TO THE WATER SYSTEM OWNER, THE MONITORING ASSISTANCE PROGRAM
38 CONTRACTOR AND THE DEPARTMENT.

39 F. THE DIRECTOR SHALL ESTABLISH FEES FOR THE MONITORING ASSISTANCE
40 PROGRAM TO BE COLLECTED FROM ALL PUBLIC WATER SYSTEMS SERVING UP TO TEN
41 THOUSAND PERSONS. THE PARTICIPATING WATER SYSTEMS SHALL REMIT THESE FEES
42 TO THE DEPARTMENT FOR DEPOSIT IN THE MONITORING ASSISTANCE FUND.

43 G. THE MONITORING ASSISTANCE FUND IS ESTABLISHED CONSISTING OF FEES
44 COLLECTED FROM PARTICIPATING PUBLIC WATER SYSTEMS PURSUANT TO SUBSECTION F
45 OF THIS SECTION. THE DIRECTOR SHALL ADMINISTER THE FUND. IF THE FUND HAS

1 A SURPLUS AFTER EXECUTION OF THE PREVIOUS YEAR'S CONTRACT, ANY SURPLUS IN
2 EXCESS OF \$200,000 IN ANY YEAR SHALL BE USED TO REDUCE THE FEE FOR THE
3 SUBSEQUENT YEAR IN A MANNER CONSISTENT WITH THE PROGRAM INVOICING SYSTEM.
4 MONIES IN THE FUND SHALL BE USED TO PAY THE MONITORING ASSISTANCE PROGRAM
5 CONTRACTORS, THE ENVIRONMENTAL LABORATORIES USED FOR THE PURPOSES OF THIS
6 SECTION AND ADMINISTRATIVE COSTS INCURRED BY THE DEPARTMENT. MONIES IN
7 THE FUND ARE EXEMPT FROM LAPSING PURSUANT TO SECTION 35-190. INTEREST
8 EARNED ON MONIES IN THE FUND SHALL BE CREDITED TO THE FUND. THE ALLOWABLE
9 ADMINISTRATIVE COSTS OF THE DEPARTMENT ARE LIMITED TO NOT MORE THAN
10 FIFTEEN PERCENT OF MONIES DEPOSITED IN THE FUND ANNUALLY OR ONE HUNDRED
11 EIGHTY-FOUR THOUSAND DOLLARS, WHICHEVER IS LESS. FOR THE PURPOSES OF THIS
12 SUBSECTION, "ADMINISTRATIVE COSTS" INCLUDES ONLY THOSE COSTS NECESSARY TO
13 DO THE FOLLOWING:

- 14 1. ENSURE CONTRACTOR PERFORMANCE AND QUALITY CONTROL.
- 15 2. ADMINISTER THE CONTRACTS.
- 16 3. COLLECT FEES AS PROVIDED IN SUBSECTION F OF THIS SECTION.
- 17 4. PROVIDE DIRECT TECHNICAL ASSISTANCE RELATED TO THE
18 IMPLEMENTATION OF THE MONITORING ASSISTANCE PROGRAM ONLY TO THE EXTENT THE
19 DEPARTMENT'S ASSISTANCE IS REQUIRED BY THIS SECTION.

20 H. THE SAFE DRINKING WATER PROGRAM FUND IS ESTABLISHED CONSISTING
21 OF MONIES DEPOSITED IN THE FUND PURSUANT TO SECTION 42-5304. THE DIRECTOR
22 SHALL ADMINISTER THE FUND. SUBJECT TO LEGISLATIVE APPROPRIATION, MONIES
23 IN THE FUND SHALL BE USED TO PAY FOR THE COSTS OF PROGRAMS REQUIRED BY
24 THIS ARTICLE INCURRED BY THE DEPARTMENT. MONIES IN THE FUND ARE EXEMPT
25 FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF
26 APPROPRIATIONS. INTEREST EARNED ON MONIES IN THE FUND SHALL BE CREDITED
27 TO THE FUND.

28 I. THE DEPARTMENT SHALL ADOPT RULES FOR THE MONITORING ASSISTANCE
29 PROGRAM.

30 J. ANY SITE VISIT MADE PURSUANT TO THIS SECTION BY A MONITORING
31 ASSISTANCE PROGRAM CONTRACTOR SHALL NOT BE REGARDED AS AN INSPECTION OR
32 INVESTIGATION. ENFORCEMENT ACTIONS SHALL NOT BE TAKEN AS A RESULT OF
33 THESE SITE VISITS, EXCEPT THAT THIS SECTION DOES NOT AFFECT THE AUTHORITY
34 OF THE DEPARTMENT TO ENFORCE THIS ARTICLE PURSUANT TO SECTION 49-354.

35 Sec. 7. Section 49-455, Arizona Revised Statutes, is amended to
36 read:

37 49-455. Permit administration fund; exemption

38 A. The permit administration fund is established consisting of fees
39 and interest collected pursuant to this article and section 27-515. The
40 director shall administer the fund subject to annual legislative
41 appropriation. On notice from the director, the state treasurer shall
42 invest and divest monies in the fund as provided in section 35-313, and
43 monies earned from investment shall be credited to the fund. Monies in
44 the fund are exempt from the provisions of section 35-190 relating to
45 lapsing of appropriations.

1 B. Monies in the fund collected pursuant to sections 49-426 and
2 49-426.01 shall be used to pay for the following:

3 1. In the case of fees collected pursuant to section 49-426,
4 subsection E, paragraph 1, all reasonable direct and indirect costs
5 required to develop and administer the permit program requirements of
6 title V of the clean air act.

7 2. In the case of other fees, administering permits or revisions
8 issued pursuant to section 49-426 or 49-426.01 or conducting inspections.

9 3. All reasonable and necessary costs to provide staff support
10 pursuant to section ~~27-515, subsection A~~ 27-514.

11 C. Monies in the fund collected pursuant to section 27-515,
12 subsection B, paragraph 5 shall be used to prepare, reproduce and
13 distribute publications pursuant to that paragraph.

14 D. Not more than five percent of the monies in the fund may be used
15 for the collection of monies, unless otherwise provided under title V of
16 the clean air act.

17 E. Not more than five percent of the monies in the fund may be used
18 for general administration of the fund unless otherwise provided under
19 title V of the clean air act.

20 Sec. 8. Retroactivity

21 Sections 4, 5 and 6 of this act apply retroactively to from and
22 after June 30, 2020.

23 Sec. 9. Emergency

24 This act is an emergency measure that is necessary to preserve the
25 public peace, health or safety and is operative immediately as provided by
26 law.

APPROVED BY THE GOVERNOR MARCH 18, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 18, 2021.