

REFERENCE TITLE: climate change; state plan

State of Arizona
House of Representatives
Fifty-fifth Legislature
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2021

HB 2496

Introduced by
Representatives Lieberman: Butler, Jermaine, Rodriguez, Shah, Terán,
Senator Marsh

AN ACT

AMENDING SECTION 49-104, ARIZONA REVISED STATUTES; RELATING TO THE
ENVIRONMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 49-104, Arizona Revised Statutes, is amended to
3 read:

4 49-104. Powers and duties of the department and director

5 A. The department shall:

6 1. Formulate policies, plans and programs to implement this title
7 to protect the environment.

8 2. Stimulate and encourage all local, state, regional and federal
9 governmental agencies and all private persons and enterprises that have
10 similar and related objectives and purposes, cooperate with those
11 agencies, persons and enterprises and correlate department plans, programs
12 and operations with those of the agencies, persons and enterprises.

13 3. Conduct research on its own initiative or at the request of the
14 governor, the legislature or state or local agencies pertaining to any
15 department objectives.

16 4. Provide information and advice on request of any local, state or
17 federal agencies and private persons and business enterprises on matters
18 within the scope of the department.

19 5. Consult with and make recommendations to the governor and the
20 legislature on all matters concerning department objectives.

21 6. Promote and coordinate the management of air resources to ensure
22 their protection, enhancement and balanced ~~utilization~~ USE consistent with
23 the environmental policy of this state.

24 7. Promote and coordinate the protection and enhancement of the
25 quality of water resources consistent with the environmental policy of
26 this state.

27 8. Encourage industrial, commercial, residential and community
28 development that maximizes environmental benefits and minimizes the
29 effects of less desirable environmental conditions.

30 9. Ensure the preservation and enhancement of natural beauty and
31 man-made scenic qualities.

32 10. Provide for the prevention and abatement of all water and air
33 pollution including that related to particulates, gases, dust, vapors,
34 noise, radiation, odor, nutrients and heated liquids in accordance with
35 article 3 of this chapter and chapters 2 and 3 of this title.

36 11. Promote and recommend methods for the recovery, recycling and
37 reuse or, if recycling is not possible, the disposal of solid wastes
38 consistent with sound health, scenic and environmental quality policies.
39 The department shall report annually on its revenues and expenditures
40 relating to the solid and hazardous waste programs overseen or
41 administered by the department.

42 12. Prevent pollution through the regulation of the storage,
43 handling and transportation of solids, liquids and gases that may cause or
44 contribute to pollution.

1 13. Promote the restoration and reclamation of degraded or
2 despoiled areas and natural resources.

3 14. Participate in the state civil defense program and develop the
4 necessary organization and facilities to meet wartime or other disasters.

5 15. Cooperate with the Arizona-Mexico commission in the governor's
6 office and with researchers at universities in this state to collect data
7 and conduct projects in the United States and Mexico on issues that are
8 within the scope of the department's duties and that relate to quality of
9 life, trade and economic development in this state in a manner that will
10 help the Arizona-Mexico commission to assess and enhance the economic
11 competitiveness of this state and of the Arizona-Mexico region.

12 16. Unless specifically authorized by the legislature, ensure that
13 state laws, rules, standards, permits, variances and orders are adopted
14 and construed to be consistent with and no more stringent than the
15 corresponding federal law that addresses the same subject matter. This
16 paragraph does not adversely affect standards adopted by an Indian tribe
17 under federal law.

18 17. Provide administrative and staff support for the oil and gas
19 conservation commission.

20 18. DEVELOP A STATE PLAN TO ADDRESS THE EFFECTS OF CLIMATE CHANGE
21 ON THIS STATE AND SUBMIT THE PLAN TO THE GOVERNOR FOR APPROVAL.

22 B. The department, through the director, shall:

23 1. Contract for the services of outside advisers, consultants and
24 aides reasonably necessary or desirable to enable the department to
25 adequately perform its duties.

26 2. Contract and incur obligations reasonably necessary or desirable
27 within the general scope of department activities and operations to enable
28 the department to adequately perform its duties.

29 3. ~~Utilize~~ USE any medium of communication, publication and
30 exhibition when disseminating information, advertising and publicity in
31 any field of its purposes, objectives or duties.

32 4. Adopt procedural rules that are necessary to implement the
33 authority granted under this title, but that are not inconsistent with
34 other provisions of this title.

35 5. Contract with other agencies, including laboratories, in
36 furthering any department program.

37 6. Use monies, facilities or services to provide matching
38 contributions under federal or other programs that further the objectives
39 and programs of the department.

40 7. Accept gifts, grants, matching monies or direct payments from
41 public or private agencies or private persons and enterprises for
42 department services and publications and to conduct programs that are
43 consistent with the general purposes and objectives of this chapter.
44 Monies received pursuant to this paragraph shall be deposited in the

1 department fund corresponding to the service, publication or program
2 provided.

3 8. Provide for the examination of any premises if the director has
4 reasonable cause to believe that a violation of any environmental law or
5 rule exists or is being committed on the premises. The director shall
6 give the owner or operator the opportunity for its representative to
7 accompany the director on an examination of those premises. Within
8 forty-five days after the date of the examination, the department shall
9 provide to the owner or operator a copy of any report produced as a result
10 of any examination of the premises.

11 9. Supervise sanitary engineering facilities and projects in this
12 state, authority for which is vested in the department, ~~and~~ own or lease
13 land on which sanitary engineering facilities are located, ~~and~~ operate the
14 facilities, if the director determines that owning, leasing or operating
15 is necessary for the public health, safety or welfare.

16 10. Adopt and enforce rules relating to approving design documents
17 for constructing, improving and operating sanitary engineering and other
18 facilities for disposing of solid, liquid or gaseous deleterious matter.

19 11. Define and prescribe reasonably necessary rules regarding the
20 water supply, sewage disposal and garbage collection and disposal for
21 subdivisions. The rules shall:

22 (a) Provide for minimum sanitary facilities to be installed in the
23 subdivision and may require that water systems plan for future needs and
24 be of adequate size and capacity to deliver specified minimum quantities
25 of drinking water and to treat all sewage.

26 (b) Provide that the design documents showing or describing the
27 water supply, sewage disposal and garbage collection facilities be
28 submitted with a fee to the department for review and that no lots in any
29 subdivision be offered for sale before compliance with the standards and
30 rules has been demonstrated by approval of the design documents by the
31 department.

32 12. Prescribe reasonably necessary measures to prevent pollution of
33 water used in public or semipublic swimming pools and bathing places and
34 to prevent deleterious conditions at those places. The rules shall
35 prescribe minimum standards for the design of and for sanitary conditions
36 at any public or semipublic swimming pool or bathing place and provide for
37 abatement as public nuisances of premises and facilities that do not
38 comply with the minimum standards. The rules shall be developed in
39 cooperation with the director of the department of health services and
40 shall be consistent with the rules adopted by the director of the
41 department of health services pursuant to section 36-136, subsection I,
42 paragraph 10.

43 13. Prescribe reasonable rules regarding sewage collection,
44 treatment, disposal and reclamation systems to prevent the transmission of

1 ~~sewage borne~~ SEWAGE-BORNE or ~~insect borne~~ INSECT-BORNE diseases. The
2 rules shall:

3 (a) Prescribe minimum standards for the design of sewage collection
4 systems and treatment, disposal and reclamation systems and for operating
5 the systems.

6 (b) Provide for inspecting the premises, systems and installations
7 and for abating as a public nuisance any collection system, process,
8 treatment plant, disposal system or reclamation system that does not
9 comply with the minimum standards.

10 (c) Require that design documents for all sewage collection
11 systems, sewage collection system extensions, treatment plants, processes,
12 devices, equipment, disposal systems, on-site wastewater treatment
13 facilities and reclamation systems be submitted with a fee for review to
14 the department and may require that the design documents anticipate and
15 provide for future sewage treatment needs.

16 (d) Require that construction, reconstruction, installation or
17 initiation of any sewage collection system, sewage collection system
18 extension, treatment plant, process, device, equipment, disposal system,
19 on-site wastewater treatment facility or reclamation system conform with
20 applicable requirements.

21 14. Prescribe reasonably necessary rules regarding excreta storage,
22 handling, treatment, transportation and disposal. The rules may:

23 (a) Prescribe minimum standards for human excreta storage,
24 handling, treatment, transportation and disposal and shall provide for
25 inspection of premises, processes and vehicles and for abating as public
26 nuisances any premises, processes or vehicles that do not comply with the
27 minimum standards.

28 (b) Provide that vehicles transporting human excreta from privies,
29 septic tanks, cesspools and other treatment processes shall be licensed by
30 the department subject to compliance with the rules. The department may
31 require payment of a fee as a condition of licensure. The department may
32 establish by rule a fee as a condition of licensure, including a maximum
33 fee. As part of the rulemaking process, there must be public notice and
34 comment and a review of the rule by the joint legislative budget
35 committee. The department shall not increase that fee by rule without
36 specific statutory authority for the increase. The fees shall be
37 deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee
38 fund established by section 49-881.

39 15. Perform the responsibilities of implementing and maintaining a
40 data automation management system to support the reporting requirements of
41 title III of the superfund amendments and reauthorization act of 1986
42 (P.L. 99-499) and article 2 of this chapter.

43 16. Approve remediation levels pursuant to article 4 of this
44 chapter.

1 17. Establish or revise fees by rule pursuant to the authority
2 granted under title 44, chapter 9, article 8 and chapters 4 and 5 of this
3 title for the department to adequately perform its duties. All fees shall
4 be fairly assessed and impose the least burden and cost to the parties
5 subject to the fees. In establishing or revising fees, the department
6 shall base the fees on:

7 (a) The direct and indirect costs of the department's relevant
8 duties, including employee salaries and benefits, professional and outside
9 services, equipment, in-state travel and other necessary operational
10 expenses directly related to issuing licenses as defined in title 41,
11 chapter 6 and enforcing the requirements of the applicable regulatory
12 program.

13 (b) The availability of other funds for the duties performed.

14 (c) The impact of the fees on the parties subject to the fees.

15 (d) The fees charged for similar duties performed by the
16 department, other agencies and the private sector.

17 18. Appoint a person with a background in oil and gas conservation
18 to act on behalf of the oil and gas conservation commission and administer
19 and enforce the applicable provisions of title 27, chapter 4 relating to
20 the oil and gas conservation commission.

21 C. The department may:

22 1. Charge fees to cover the costs of all permits and inspections it
23 performs to ensure compliance with rules adopted under section 49-203,
24 except that state agencies are exempt from paying those fees that are not
25 associated with the dredge and fill permit program established pursuant to
26 chapter 2, article 3.2 of this title. For services provided under the
27 dredge and fill permit program, a state agency shall pay either:

28 (a) The fees established by the department under the dredge and
29 fill permit program.

30 (b) The reasonable cost of services provided by the department
31 pursuant to an interagency service agreement.

32 2. Monies collected pursuant to this subsection shall be deposited,
33 pursuant to sections 35-146 and 35-147, in the water quality fee fund
34 established by section 49-210.

35 3. Contract with private consultants for the purposes of assisting
36 the department in reviewing applications for licenses, permits or other
37 authorizations to determine whether an applicant meets the criteria for
38 issuance of the license, permit or other authorization. If the department
39 contracts with a consultant under this paragraph, an applicant may request
40 that the department expedite the application review by requesting that the
41 department use the services of the consultant and by agreeing to pay the
42 department the costs of the consultant's services. Notwithstanding any
43 other law, monies paid by applicants for expedited reviews pursuant to
44 this paragraph are appropriated to the department for use in paying
45 consultants for services.

1 D. The director may:

2 1. If the director has reasonable cause to believe that a violation
3 of any environmental law or rule exists or is being committed, inspect any
4 person or property in transit through this state and any vehicle in which
5 the person or property is being transported and detain or disinfect the
6 person, property or vehicle as reasonably necessary to protect the
7 environment if a violation exists.
8 2. Authorize in writing any qualified officer or employee in the
9 department to perform any act that the director is authorized or required
10 to do by law.