

Senate Engrossed

water banking; storage credits; subcontractors.

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

CHAPTER 227

SENATE BILL 1147

AN ACT

AMENDING SECTION 45-2457, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA WATER BANKING AUTHORITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-2457, Arizona Revised Statutes, is amended to
3 read:

4 45-2457. Accounting; rules of operation

5 A. The authority shall develop an accounting system for the
6 long-term storage credits accrued or purchased by the authority. The
7 accounting system shall be designed to allow the authority to determine
8 which funding source of the banking fund paid for each long-term storage
9 credit accrued or purchased by the authority.

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

12 1. The authority shall reserve a reasonable number of long-term
13 storage credits accrued or purchased with general fund appropriations,
14 other than general fund appropriations for replenishment under chapter 15,
15 article 3 of this title, for the benefit of municipal and industrial users
16 of Colorado River water in this state that are outside of the service area
17 of CAWCD.

18 2. The authority may distribute long-term storage credits accrued
19 or purchased with general fund appropriations, other than general fund
20 appropriations for replenishment under chapter 15, article 3 of this
21 title, for both of the following:

22 (a) To make water available to a municipal and industrial user of
23 Colorado River water in this state that is outside of the service area of
24 CAWCD, if both of the following apply:

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

28 (ii) The authority collects reimbursement for the cost to the
29 authority of replacing the long-term storage credits distributed. The
30 authority may replace the long-term storage credits in any year it deems
31 appropriate but shall use good faith efforts to replace the long-term
32 storage credits at a reasonable cost to the person who is responsible for
33 reimbursing the authority for the credits distributed.

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

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

40 (ii) The authority does not distribute for this purpose the
41 long-term storage credits reserved in accordance with paragraph 1 of this
42 subsection.

43 (iii) The authority collects reimbursement from CAWCD for the cost
44 to the authority of replacing the long-term storage credits distributed.
45 The authority may replace the long-term storage credits in any year it

1 deems appropriate but shall use good faith efforts to replace the
2 long-term storage credits at a reasonable cost to CAWCD.

3 3. The authority may distribute or extinguish long-term storage
4 credits accrued or purchased with general fund appropriations, other than
5 general fund appropriations for replenishment under chapter 15, article 3
6 of this title, to implement the settlement of water right claims by Indian
7 communities in this state.

8 4. On request from the director, the authority may extinguish
9 long-term storage credits accrued or purchased with general fund
10 appropriations, other than general fund appropriations for replenishment
11 under chapter 15, article 3 of this title, to fulfill the water management
12 objectives set forth in chapter 2 of this title.

13 5. The authority may exchange long-term storage credits accrued or
14 purchased with general fund appropriations for long-term storage credits
15 held by other persons if the long-term storage credits received by the
16 authority were stored in a location that better enables the authority to
17 fulfill the purposes and policies of this chapter than were the long-term
18 storage credits exchanged by the authority. For the purposes of this
19 paragraph, the authority may make exchanges of long-term storage credits
20 stored in one active management area for long-term storage credits stored
21 in a different active management area or of long-term storage credits
22 stored in one groundwater basin for long-term storage credits stored in a
23 different groundwater basin.

24 6. The authority shall distribute or extinguish long-term storage
25 credits accrued or purchased with monies collected in accordance with
26 section 45-611, subsection C, paragraph 3 only for the benefit of the
27 active management area in which the monies were collected. The authority
28 may distribute or extinguish these long-term storage credits to the extent
29 necessary to meet the demands of CAWCD's municipal and industrial
30 subcontractors during times in which CAWCD's diversions from the Colorado
31 River have been or will be disrupted by shortages on the Colorado River or
32 by disruptions in operation of the central Arizona project, to implement
33 the settlement of water right claims by Indian communities in this state
34 or, on request from the director, to meet the other water management
35 objectives set forth in chapter 2 of this title. The authority may use
36 the monies collected in the Pinal active management area under section
37 45-611, subsection C, paragraph 3 to acquire long-term storage credits for
38 replenishment purposes under chapter 15, article 3 of this title.

39 7. The authority shall distribute long-term storage credits accrued
40 or purchased with monies deposited in the fund in accordance with section
41 48-3715.03, subsection B only for the benefit of the county in which the
42 monies were collected. The authority shall distribute these long-term
43 storage credits to CAWCD OR TO CAWCD'S MUNICIPAL AND INDUSTRIAL
44 SUBCONTRACTORS to the extent necessary to meet the demands of CAWCD's
45 municipal and industrial subcontractors during times in which CAWCD's

1 diversions from the Colorado River have been or will be disrupted by
2 shortages on the Colorado River or by disruptions in operation of the
3 central Arizona project. LONG-TERM STORAGE CREDITS THAT ARE DISTRIBUTED
4 TO A CAWCD MUNICIPAL AND INDUSTRIAL SUBCONTRACTOR PURSUANT TO THIS
5 PARAGRAPH MAY NOT BE SOLD, AND THE SUBCONTRACTOR IS RESPONSIBLE FOR ALL
6 FEES ASSESSED BY THE AUTHORITY OR THE DIRECTOR FOR THE DISTRIBUTION OF THE
7 LONG-TERM STORAGE CREDITS AND ALL COSTS OF RECOVERY OF THE LONG-TERM
8 STORAGE CREDITS.

9 8. For each county within the CAWCD service area, on a
10 determination by the authority that the number of long-term storage
11 credits accrued or purchased with monies deposited in the fund in
12 accordance with section 48-3715.03, subsection B exceeds the needs
13 specified in paragraph 7 of this subsection for that county, the authority
14 shall distribute those excess long-term storage credits to municipal water
15 providers within that county that are at the time of distribution
16 experiencing surface water supply shortages not associated with the
17 central Arizona project. The authority shall distribute to each such
18 municipal water provider the lesser of the following number of long-term
19 storage credits:

20 (a) The total number of credits determined to be available by the
21 authority under this paragraph multiplied by the percentage produced by
22 dividing a numerator equaling the amount of revenues paid pursuant to
23 section 48-3715.02, subsections B and C by taxpayers that are within both
24 the boundaries of the municipal provider that is experiencing the shortage
25 and the boundaries of the surface water supply system that is experiencing
26 the shortage by a denominator equaling the total revenues paid pursuant to
27 section 48-3715.02, subsections B and C by all taxpayers that are located
28 within both the boundaries of a municipal water provider and the
29 boundaries of a surface water supply system in the county. In making
30 these computations, the authority shall use the amounts of revenue paid by
31 taxpayers during the most recent tax year for which this information is
32 available.

33 (b) Twenty ~~per cent~~ PERCENT of the total surface water shortage
34 that the municipal and industrial water provider is experiencing.

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

38 10. The authority shall acquire sufficient water supplies to
39 perform its replenishment responsibilities under chapter 15, article 3 of
40 this title. The authority shall acquire those water supplies with monies
41 appropriated from the state general fund by the legislature for
42 replenishment under chapter 15, article 3 of this title and to the extent
43 that monies appropriated by the legislature for that purpose are not
44 available, with monies collected in the Pinal active management area under
45 section 45-611, subsection C, paragraph 3. The authority shall use the

1 water supplies acquired pursuant to this paragraph for any replenishment
2 activity authorized by section 45-2623 and for implementation of the
3 southside replenishment bank established by section 45-2624, including
4 delivering water directly to the Gila river Indian community for those
5 purposes.

6 C. Any other long-term storage credits accrued or purchased by the
7 authority may be distributed or extinguished by the authority in
8 accordance with the policy and purposes of this chapter.

9 D. Except as provided by subsection B, paragraph 7 of this section
10 and except as provided by agreements entered into by the authority, the
11 decision to distribute or extinguish any long-term storage credit accrued
12 or purchased by the authority is at the complete discretion of the
13 authority.

APPROVED BY THE GOVERNOR APRIL 14, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 14, 2021.