



ARIZONA STATE SENATE
Fifty-Fifth Legislature, Second Regular Session

ENACTED

FACT SHEET FOR H.B. 2861/S.B. 1728

environment; 2022-2023

Purpose

Makes statutory and session law changes relating to the environment necessary to implement the FY 2023 state budget.

Background

The Arizona Constitution prohibits substantive law from being included in the general appropriations, capital outlay appropriations and supplemental appropriations bills. However, it is often necessary to make statutory and session law changes to effectuate the budget. Thus, separate bills called budget reconciliation bills (BRBs) are introduced to enact these provisions. Because BRBs contain substantive law changes, the Arizona Constitution provides that they become effective on the general effective date, unless an emergency clause is enacted.

H.B. 2861 contains the budget reconciliation provisions for changes relating to the environment.

Provisions

Water Infrastructure and Commerce Grant Fund (Grant Fund)

1. Establishes the Grant Fund, administered by the Chief Executive Officer of the Arizona Commerce Authority (ACA), consisting of:
 - a) legislative appropriations;
 - b) federal monies; and
 - c) private donations.
2. Allows Grant Fund monies to be used to provide grants to eligible entities to contract for the design and construction of water infrastructure at the eligible entity's location.
3. Requires the ACA to retain up to one percent of monies in the Grant Fund annually for administration.
4. Deems, as eligible to apply for and receive grant monies:
 - a) a public service corporation that:
 - i. provides water service pursuant to a certificate of convenience and necessity issued by the Arizona Corporation Commission; and
 - ii. is acting on behalf of an employer that is an eligible entity; and
 - b) an employer with more than 250 employees located in a county with a population between 400,000 persons and 1,000,000 persons.

5. Requires the ACA to:
 - a) prescribe a simplified form and procedure to apply for and approve grants;
 - b) establish requirements and criteria by which grants will be awarded, providing for:
 - i. grants to eligible applicants only for new water infrastructure projects located at the eligible applicant's property in a county with a population between 400,000 persons and 1,000,000 persons;
 - ii. grants for projects that create new jobs;
 - iii. grants for projects beginning after January 1, 2022;
 - iv. grants allocated and distributed by December 31, 2024;
 - v. more favorable consideration of applicants who include collaboration and cooperation with other community members and entities; and
 - vi. applicant requirements; and
 - c) before awarding the grant, prepare a written statement signed by the Chief Executive Officer of the ACA that:
 - i. assesses the direct economic impact of a grant, including the number of new jobs that will be created; and
 - ii. contains a finding that the award of grant monies is in the best interest of the state.
6. Outlines applicant requirements, including:
 - a) certification that the applicant is eligible to receive grant monies;
 - b) a description of the project and services requested and why the project and services are needed; and
 - c) certification that all grant monies will be used in compliance with Grant Fund requirements.
7. Requires the ACA, by December 15 of each year, to submit a report to the Joint Legislative Budget Committee that includes, at a minimum, by project:
 - a) the amount of actual expenditures from the Grant Fund; and
 - b) an expenditure plan for all remaining monies by project
8. Specifies that monies in the Grant Fund are continuously appropriated and exempt from lapsing.

Arizona Department of Environmental Quality (ADEQ)

9. Requires, by December 31, 2024, the Director of ADEQ to:
 - a) establish, by rule, permit fees sufficient to administer a Direct Potable Reuse of Treated Wastewater Program (Wastewater Program); and
 - b) adopt all rules necessary to establish and implement a Wastewater Program, including rules establishing permitting standards and a permit application process.
10. Requires monies collected from Wastewater Program permit fees to be deposited in the Water Quality Fee Fund.

11. Continues to allow ADEQ, notwithstanding any other law, to use up to \$6,531,000 from the Underground Storage Tank Revolving Fund in FY 2023 for:
 - a) ADEQ administrative costs; and
 - b) remediating sewage discharge issues in Naco, Arizona and other border areas of Arizona.
12. Continues the cap of \$15,000,000 on the appropriation from the state General Fund to the Water Quality Assurance Revolving Fund (WQARF) in FY 2023, notwithstanding statutes governing the WQARF.
13. Continues to require the Director of ADEQ, notwithstanding any other law, to charge fees in FY 2023 that are not more than the fees charged in FY 2022 for tests conducted in Area A, as defined by statutes governing Annual Emissions Inspection of Motor Vehicles.
14. Exempts, until July 1, 2023, ADEQ from the rulemaking requirements of the Administrative Procedures Act to establish fees for the emissions tests.

Arizona Department of Agriculture (AZDA)

15. Continues to allow the Director of the AZDA, notwithstanding any other law and with the assistance of the AZDA Council, to continue, increase or lower existing fees from FYs 2021 and 2022 in FY 2023 for services provided in FY 2023.
16. Continues to declare that the Legislature intends for additional revenue generated by AZDA fee changes in FY 2023 to not exceed:
 - a) \$218,000 to the state General Fund;
 - b) \$113,000 to the Pesticide Trust Fund; and
 - c) \$26,000 to the Dangerous Plants, Pests and Diseases Trust Fund.
17. Exempts, until July 1, 2023, the AZDA from the rulemaking requirements of the Administrative Procedures Act to establish the fees.

Arizona Department of Water Resources (ADWR)

18. Continues to allow the Arizona Water Protection Fund (Protection Fund) Commission, notwithstanding statutes governing the administration of the Protection Fund, to grant ADWR up to \$336,000 of the unobligated balance in the Protection Fund to pay for ADWR administrative costs in FY 2023.

Arizona Water Banking Fund

19. Continues to allow monies appropriated to the Arizona Navigable Stream Adjudication Commission from the Arizona Water Banking Fund to be used in FY 2023 to pay legal fees, in addition to being used for statutorily provided purposes.

Miscellaneous

20. Makes conforming changes.

21. Becomes effective on the general effective date.

House Action

APPROP 6/21/22 DP 8-5-0-0
3rd Read 6/23/22 39-20-1

Senate Action

APPROP 6/22/22 DP 5-3-2
3rd Read 6/23/22 20-8-2

(H.B. 2861 was substituted for S.B. 1728 on
3rd Read)

Signed by the Governor 6/28/22

Chapter 312

Prepared by Senate Research

July 7, 2022

RC/slp