

REFERENCE TITLE: pool review; fee; authority

State of Arizona
Senate
Fifty-seventh Legislature
Second Regular Session
2026

SB 1490

Introduced by
Senator Shope

AN ACT

AMENDING SECTION 49-104, ARIZONA REVISED STATUTES; RELATING TO THE
DEPARTMENT OF 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 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 regulating the storage, handling and
43 transportation of solids, liquids and gases that may cause or contribute
44 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 not 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 B. The department, through the director, shall:

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

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

27 3. Use any medium of communication, publication and exhibition when
28 disseminating information, advertising and publicity in any field of its
29 purposes, objectives or duties.

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

33 5. Contract with other agencies, including laboratories, in
34 furthering any department program.

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

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

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

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

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

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

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

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

12. ~~Prescribe~~ ADOPT RULES reasonably necessary ~~measures~~ to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious conditions at those places. ~~The~~ Rules ADOPTED PURSUANT TO THIS THIS PARAGRAPH shall:

(a) Prescribe minimum standards for the design of and for sanitary conditions at any public or semipublic swimming pool or bathing place and provide for abatement as public nuisances of premises and facilities that do not comply with the minimum standards. ~~The rules shall~~

(b) Be developed in cooperation with the director of the department of health services and ~~shall be~~ consistent with the rules adopted by the director of the department of health services pursuant to section 36-136, subsection I, paragraph 10.

(c) ESTABLISH FEES FOR THE DEPARTMENT'S REVIEW OF PUBLIC AND SEMIPUBLIC SWIMMING POOLS. FEES COLLECTED PURSUANT TO THIS PARAGRAPH SHALL:

1 (i) BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE
2 WATER QUALITY FEE FUND ESTABLISHED BY SECTION 49-210.

3 (ii) NOT APPLY TO ANY STATE AGENCY.

4 13. Prescribe reasonable rules regarding sewage collection,
5 treatment, disposal and reclamation systems to prevent the transmission of
6 sewage borne or insect borne diseases. The rules shall:

7 (a) Prescribe minimum standards for the design of sewage collection
8 systems and treatment, disposal and reclamation systems and for operating
9 the systems.

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

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

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

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

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

32 (b) Provide that vehicles transporting human excreta from privies,
33 septic tanks, cesspools and other treatment processes be licensed by the
34 department subject to compliance with the rules. The department may
35 require payment of a fee as a condition of licensure. The department shall
36 establish by rule a fee as a condition of licensure, including a maximum
37 fee. The fees shall be deposited, pursuant to sections 35-146 and 35-147,
38 in the solid waste fee 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, articles 8 and 9 and chapters 4 and 5
3 of this title for the department to adequately perform its duties. All
4 fees shall be fairly assessed and impose the least burden and cost to the
5 parties subject to the fees. In establishing or revising fees, the
6 department shall base the fees on the direct and indirect costs of the
7 department's relevant duties, including employee salaries and benefits,
8 professional and outside services, equipment, in-state travel and other
9 necessary operational expenses directly related to issuing licenses as
10 defined in title 41, chapter 6 and enforcing the requirements of the
11 applicable regulatory program.

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

16 C. The department may:

17 1. Charge fees to cover the costs of all permits and inspections it
18 performs to ensure compliance with rules adopted under section 49-203
19 except that state agencies are exempt from paying the fees.

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

23 3. Contract with private consultants for the purposes of assisting
24 the department in reviewing applications for licenses, permits or other
25 authorizations to determine whether an applicant meets the criteria for
26 issuance of the license, permit or other authorization. If the department
27 contracts with a consultant under this paragraph, an applicant may request
28 that the department expedite the application review by requesting that the
29 department use the services of the consultant and by agreeing to pay the
30 department the costs of the consultant's services. Notwithstanding any
31 other law, monies paid by applicants for expedited reviews pursuant to
32 this paragraph are appropriated to the department for use in paying
33 consultants for services.

34 D. The director may:

35 1. If the director has reasonable cause to believe that a violation
36 of any environmental law or rule exists or is being committed, inspect any
37 person or property in transit through this state and any vehicle in which
38 the person or property is being transported and detain or disinfect the
39 person, property or vehicle as reasonably necessary to protect the
40 environment if a violation exists.

41 2. Authorize in writing any qualified officer or employee in the
42 department to perform any act that the director is authorized or required
43 to do by law.

1 Sec. 2. Legislative intent

2 The legislature intends that the director of the department of
3 environmental quality adopt fees pursuant to section 49-104, subsection B,
4 paragraph 12, Arizona Revised Statutes, as amended by this act, only in an
5 amount sufficient to cover the department's expenses in implementing rules
6 established by this act.