

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 262
HOUSE BILL 2788

AN ACT

AMENDING TITLE 37, CHAPTER 2.1, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; AMENDING SECTION 41-511.23, ARIZONA REVISED STATUTES; AMENDING LAWS 2005, CHAPTER 322, SECTION 2, AS AMENDED BY LAWS 2007, CHAPTER 222, SECTION 15; MAKING APPROPRIATIONS; RELATING TO ENVIRONMENT BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 37, chapter 2.1, Arizona Revised Statutes, is amended
3 by adding article 2, to read:

4 ARTICLE 2. COMMUNITY PROTECTION INITIATIVE

5 37-641. Community protection initiative fund

6 A. THE COMMUNITY PROTECTION INITIATIVE FUND IS ESTABLISHED. THE STATE
7 FORESTER SHALL ADMINISTER THE FUND. THE FUND CONSISTS OF LEGISLATIVE
8 APPROPRIATIONS, GIFTS, GRANTS AND ANY OTHER PUBLIC OR PRIVATE REVENUE
9 RECEIVED BY THE STATE FORESTER FOR THE PURPOSES OF THIS ARTICLE. MONIES IN
10 THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE STATE FORESTER FOR THE PURPOSES
11 OF THIS ARTICLE.

12 B. ON NOTICE FROM THE STATE FORESTER, THE STATE TREASURER SHALL INVEST
13 AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES
14 EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND. MONIES IN THE FUND ARE
15 EXEMPT FROM THE PROVISIONS OF SECTION 35-190, RELATING TO LAPSING OF
16 APPROPRIATIONS.

17 C. THE STATE FORESTER MAY APPLY FOR AND ACCEPT FEDERAL AND PRIVATE
18 MONIES, GRANTS, GIFTS, CONTRIBUTIONS AND DEVICES FOR DEPOSIT IN THE FUND TO
19 BE SPENT FOR THE PURPOSES OF THIS ARTICLE.

20 37-642. Community protection grants; eligibility

21 A. THE COMMUNITY PROTECTION INITIATIVE PROGRAM IS ESTABLISHED TO
22 PROVIDE A SOURCE OF COST-SHARE FUNDING TO ASSIST LOCAL GOVERNMENTS AND
23 PRIVATE LANDOWNERS IN REDUCING THE VOLUME OF HAZARDOUS FUELS ON NONFEDERAL
24 FORESTED LAND IN THIS STATE.

25 B. THE STATE FORESTER SHALL MAINTAIN A LIST OF COMMUNITIES AT RISK OF
26 WILDFIRE. SUBJECT TO THE AVAILABILITY OF MONIES IN THE COMMUNITY PROTECTION
27 INITIATIVE FUND, THE FORESTER MAY ISSUE GRANTS FROM THE COMMUNITY PROTECTION
28 INITIATIVE FUND TO AT-RISK COMMUNITIES TO COMPLETE COMMUNITY WILDFIRE
29 PROTECTION PLANS.

30 C. THE STATE FORESTER SHALL PRIORITIZE GRANTS ACCORDING TO A
31 COMMUNITY'S AVAILABLE RESOURCES. IN ADDITION, THE GRANTS ARE SUBJECT TO THE
32 FOLLOWING REQUIREMENTS:

33 1. A GRANT SHALL BE ISSUED ONLY TO A COUNTY, CITY, TOWN, FIRE DISTRICT
34 OR QUALIFIED NONPROFIT CORPORATION THAT HAS EXPERTISE IN HAZARDOUS FUELS
35 REDUCTION.

36 2. THE STATE FORESTER SHALL REQUIRE THAT ANY GRANTEE MUST ENTER INTO A
37 LEGALLY BINDING FINANCIAL PARTICIPATION AGREEMENT TO PROVIDE AT LEAST
38 TWENTY-FIVE PER CENT OF THE TOTAL COST OF THE FUEL TREATMENT. ANY MONIES
39 FROM NONFEDERAL AND NONSTATE SOURCES AND IN-KIND CONTRIBUTIONS MAY BE
40 CONSIDERED TO QUALIFY FOR THE FINANCIAL PARTICIPATION REQUIREMENT OF THIS
41 PARAGRAPH.

42 3. PROJECT MANAGERS MUST AGREE TO PROVIDE:

43 (a) TREATMENT INFORMATION FOR PURPOSES OF THE ARIZONA FIRE MAP
44 PROJECT.

45 (b) FINANCIAL AND PROGRESS UPDATES TO THE STATE FORESTER EACH CALENDAR
46 QUARTER.

1 4. ANY FUNDED PROJECT MUST MEET STANDARDS FOR HAZARDOUS FUEL REDUCTION
2 ESTABLISHED BY THE STATE FORESTER.

3 5. THE GEOGRAPHIC AREA OF THE PROPOSED PROJECT MUST BE IDENTIFIED IN A
4 COMMUNITY WILDFIRE PROTECTION PLAN.

5 6. THE PROJECT MUST BE COMPLETED WITHIN THIRTY-SIX MONTHS AFTER THE
6 DATE OF THE GRANT. AT THE END OF THIRTY-SIX MONTHS, ANY UNEXPENDED AND
7 UNENCUMBERED GRANT MONIES LAPSE AND REVERT TO THE COMMUNITY PROTECTION
8 INITIATIVE FUND. THE STATE FORESTER SHALL EXTEND THE TERM OF THE PROJECT AND
9 THE GRANT IN THE CASE OF FOREST CLOSURE OR PROHIBITIVE WEATHER CONDITIONS
10 THAT ARE BEYOND THE CONTROL OF THE GRANTEE.

11 37-643. Management; categorical funding limits; annual report

12 A. THE STATE FORESTER IS RESPONSIBLE AND SHALL PROVIDE FOR THE
13 MANAGEMENT OF THE COMMUNITY PROTECTION INITIATIVE PROGRAM UNDER THIS ARTICLE.

14 B. IN ANY FISCAL YEAR THE STATE FORESTER SHALL NOT SPEND FROM THE
15 COMMUNITY PROTECTION INITIATIVE FUND MORE THAN:

16 1. FIFTY THOUSAND DOLLARS FOR PROGRAM ADMINISTRATION, INCLUDING:

- 17 (a) RANKING GRANT PRIORITIES.
- 18 (b) RECEIVING AND EVALUATING GRANT APPLICATIONS.
- 19 (c) AWARDING AND MONITORING GRANTS.
- 20 (d) REALLOCATING LAPSED GRANT MONIES.

21 2. ONE HUNDRED THOUSAND DOLLARS FOR AN ARIZONA FIRE MAP TO TRACK THE
22 PROGRESS OF FOREST TREATMENT UNDER COMMUNITY WILDFIRE PROTECTION PLANS BY
23 MANAGING TREATMENT INFORMATION AND LOADING DATA ASSOCIATED WITH THE PLANS
24 INTO THE COMMUNITY PROTECTION INITIATIVE SYSTEM.

25 C. THE STATE FORESTER SHALL PREPARE AN ANNUAL REPORT ON THE COMMUNITY
26 PROTECTION INITIATIVE PROGRAM, INCLUDING BUDGETED EXPENDITURES AND
27 OUTSTANDING GRANTS FROM THE FUND AND PROGRESS IN COMPLETING PROJECTS FUNDED
28 BY THE GRANTS. THE STATE FORESTER SHALL PROVIDE COPIES OF THE ANNUAL REPORT
29 TO THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF
30 REPRESENTATIVES, THE JOINT LEGISLATIVE BUDGET COMMITTEE, THE SECRETARY OF
31 STATE, THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS AND ANY PERSON
32 REQUESTING A COPY.

33 37-644. Program termination

34 THE PROGRAM ESTABLISHED BY THIS ARTICLE ENDS ON JULY 1, 2017 PURSUANT
35 TO SECTION 41-3102.

36 Sec. 2. Section 41-511.23, Arizona Revised Statutes, is amended to
37 read:

38 41-511.23. Conservation acquisition board; land conservation
39 fund; conservation donation and public
40 conservation accounts; livestock and crop
41 conservation fund

42 A. The conservation acquisition board is established, as an advisory
43 body to the Arizona state parks board, consisting of the following members
44 who are appointed by the governor, at least one of whom shall be experienced
45 in soliciting money from private sources:

- 46 1. One state land lessee.

- 1 2. One member who is qualified by experience in managing large
- 2 holdings of private land for income production or conservation purposes.
- 3 3. One member of the state bar of Arizona who is experienced in the
- 4 practice of private real estate law.
- 5 4. One real estate appraiser who is licensed or certified under title
- 6 32, chapter 36.
- 7 5. One member who is qualified by experience in marketing real estate.
- 8 6. One representative of a conservation organization.
- 9 7. One representative of a state public educational institution.
- 10 B. The governor shall designate a presiding member of the board. The
- 11 term of office is five years except that initial members shall assign
- 12 themselves by lot to terms of one, two, three, two members for four and two
- 13 members for five years in office.
- 14 C. The conservation acquisition board shall:
- 15 1. Solicit donations to the conservation donation account.
- 16 2. Consult with entities such as private land trusts, state land
- 17 lessees, the state land department, the Arizona state parks board and others
- 18 to identify conservation areas that are reclassified pursuant to section
- 19 37-312 and that are suitable for funding.
- 20 3. Recommend to the Arizona state parks board appropriate grants from
- 21 the land conservation fund.
- 22 D. The land conservation fund is established consisting of the
- 23 following accounts:
- 24 1. The conservation donation account consisting of monies received as
- 25 donations. Donations to the account are subject to any lawful conditions the
- 26 donor may prescribe, including any conditions on the use of the money or
- 27 reversion to the donor. Monies in the account are exempt from the provisions
- 28 of section 35-190 relating to lapsing of appropriations.
- 29 2. The public conservation account consisting of monies appropriated
- 30 to the account from the state general fund and monies from any other
- 31 designated source. In fiscal years 2000-2001 through 2010-2011, the sum of
- 32 twenty million dollars is appropriated each fiscal year from the state
- 33 general fund to the public conservation account in the land conservation fund
- 34 for the purposes of this section. Monies in the account are appropriated for
- 35 the purposes of this section, and the Arizona state parks board may spend
- 36 monies in the account without further legislative authorization. Each
- 37 expenditure of monies from the public conservation account for purposes
- 38 listed under subsection G, paragraph 2 of this section shall be matched by an
- 39 equal expenditure of monies from the conservation donation account or from
- 40 other private or governmental sources.
- 41 E. If the legislature fails to appropriate monies to the public
- 42 conservation account in a fiscal year, and if there are no other monies in
- 43 the public conservation account, the Arizona state parks board may either
- 44 grant nothing from the fund in that year or, on recommendation by the
- 45 conservation acquisition board, may grant available monies in the

1 conservation donation account for purposes authorized in subsection G of this
2 section.

3 F. The monies in the fund are exempt from the provisions of section
4 35-190 relating to lapsing of appropriations.

5 G. Monies in the public conservation account, with matching monies
6 from the conservation donation account, are appropriated as follows:

7 1. A total of two million dollars each fiscal year to the livestock
8 and crop conservation fund. The fund is established for the purposes of this
9 paragraph. Monies in the fund are continuously appropriated to the Arizona
10 department of agriculture for the exclusive purpose of granting monies to
11 individual landowners and grazing and agricultural lessees of state or
12 federal land who contract with the Arizona department of agriculture to
13 implement conservation based management alternatives using livestock or crop
14 production practices, or reduce livestock or crop production, to provide
15 wildlife habitat or other public benefits that preserve open space and for
16 administrative expenses as provided by this paragraph. The department shall
17 administer the fund. On notice from the director of the department, the
18 state treasurer shall invest and divest monies in the fund as provided by
19 section 35-313, and monies earned from investment shall be credited to the
20 fund. Monies in the fund are exempt from the provisions of section 35-190
21 relating to lapsing of appropriations. For the purposes of granting monies
22 from the fund pursuant to this paragraph, the department:

23 (a) Shall develop guidelines and criteria for implementation of this
24 program that shall include requiring as part of the application a letter
25 describing the intended use for the grant money.

26 (b) Shall give priority to lessees of state or federal land who reduce
27 livestock production to provide public benefits such as wildlife species
28 conservation or wildlife habitat.

29 (c) Shall not grant more than fifty per cent of the monies in the fund
30 with respect to land in one county in any fiscal year.

31 (d) Is exempt from chapter 6 of this title with respect to adopting
32 rules, except that the department shall provide for public notice and sixty
33 days for public comment on the annual grant guidelines and criteria,
34 including public hearings.

35 (e) Shall award all grants pursuant to chapter 24, article 1 of this
36 title.

37 (f) Shall require each grantee to submit to the department, within
38 twelve months after receiving the grant, a written report detailing how grant
39 monies were used to achieve the project described in the letter submitted as
40 part of the application. If the project is longer than one year, a written
41 report shall be submitted to the department on an annual basis until the
42 project is complete.

43 (g) May use not more than ~~five~~ TEN per cent of the monies appropriated
44 to the fund in any fiscal year for the purposes of administering the program.

45 (h) Shall prepare a report of the disposition of monies appropriated
46 to the fund each fiscal year and provide a copy of the report to the

1 governor, to the Arizona state parks board and to any person who requests a
2 copy.

3 2. The remainder of the monies to the Arizona state parks board for
4 the exclusive purpose of granting monies to the state or any of its political
5 subdivisions, or to a nonprofit organization that is exempt from federal
6 income taxation under section 501(c) of the internal revenue code and that
7 has the purpose of preserving open space, for the following purposes only:

8 (a) To purchase or lease state trust lands that are classified as
9 suitable for conservation purposes pursuant to title 37, chapter 2, article
10 4.2. A grant of money under this subdivision to a nonprofit organization is
11 conditioned on the organization providing reasonable public access to any
12 land that is wholly or partly purchased with that money. The organization
13 shall agree with the Arizona state parks board that it will impose a
14 restrictive covenant, running with the title to the land, granting such
15 access and providing for reversion to this state of any interest in the
16 property acquired with money granted under this subdivision on the failure to
17 comply with the terms of the covenant. The Arizona state parks board and the
18 state land commissioner have standing to either enforce the covenant or
19 recover the amount of the grant from the current owner, with interest from
20 the date the grant was awarded to the nonprofit organization.

21 (b) To purchase the development rights of state trust lands throughout
22 this state under the following conditions:

23 (i) The development rights shall be sold at public auction as provided
24 in section 37-258.01.

25 (ii) The lessee of the state trust land at the time the development
26 rights are purchased shall be notified of the purchase in writing.

27 (iii) The purchase of the development rights shall not result in
28 cancellation or modification of the current lease.

29 (iv) The purchase of the development rights shall not affect the
30 existing lessee's current economic use of the land and rights pursuant to
31 title 37, chapter 2, article 4.2.

32 (v) As a condition of the sale of the development rights, the
33 purchaser shall agree in perpetuity not to exercise the development rights
34 and that the land shall remain as open space.

35 (vi) The state trust land shall retain any other rights and attributes
36 as prescribed by law at the time of the purchase.

37 H. For the purposes of subsection G, paragraph 2 of this section:

38 1. The Arizona state parks board shall not grant more than fifty per
39 cent of the monies with respect to land in one county in any fiscal year.

40 2. A grant of money is valid for eighteen months and may be extended
41 one time for twelve additional months if a required public auction has not
42 been held.

43 3. The Arizona state parks board may adopt rules to establish
44 qualifications of nonprofit organizations for purposes of applying for and
45 receiving money granted.

1 4. The owner of property that is wholly or partly acquired with money
2 granted shall not restrict or unreasonably limit access to private lands.
3 Any sale of land with money granted shall include a condition requiring that
4 permanent access to private lands be allowed.

5 I. The Arizona state parks board shall administer the land
6 conservation fund. On notice from the board, the state treasurer shall
7 invest and divest monies in either account in the fund as provided by section
8 35-313, and monies earned from investments shall be credited to a separate
9 administration account to pay the board's expenses of administering the land
10 conservation and acquisition program under subsection G, paragraph 2 of this
11 section, which shall not exceed five per cent of the amount deposited in the
12 public conservation account in any fiscal year or five hundred thousand
13 dollars, whichever is less. Any unobligated amount remaining in the
14 administration account at the end of the fiscal year shall be credited to the
15 public conservation account for purposes of subsection D of this section.

16 J. Members of the conservation acquisition board may be reimbursed for
17 travel and lodging expenses and per diem subsistence allowances incurred
18 while on public business for the board. Reimbursement amounts shall not
19 exceed those allowed under title 38, chapter 4, article 2.

20 Sec. 3. Laws 2005, chapter 322, section 2, as amended by Laws 2007,
21 chapter 222, section 15, is amended to read:

22 Sec. 2. Plan submission fees; appropriation

23 Notwithstanding the provisions of section 27-1233, subsection B,
24 Arizona Revised Statutes, as added by this act, monies collected by the state
25 mine inspector for submission of reclamation plans between January 1, 2006
26 and July 1, ~~2007~~ 2008 are appropriated to the state mine inspector for the
27 purposes of plan review and evaluation.

28 Sec. 4. Off-highway vehicle recreation fund; use

29 Notwithstanding section 28-1176, Arizona Revised Statutes, the Arizona
30 state parks board may spend up to \$692,100 from the Arizona state parks board
31 portion of the off-highway vehicle recreation fund in fiscal years 2007-2008
32 and 2008-2009 for parks board operating expenses.

33 Sec. 5. Arizona water protection fund; use

34 Notwithstanding section 45-2112, subsection B, Arizona Revised
35 Statutes, the annual appropriation from the state general fund to the Arizona
36 water protection fund for fiscal years 2007-2008 and 2008-2009 shall be as
37 specified in the general appropriations act.

