

Senate Engrossed House Bill

livestock assistance program; infrastructure projects

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HOUSE BILL 2182

AN ACT

AMENDING TITLE 3, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 3-109.03; AMENDING SECTION 41-1005, ARIZONA REVISED
STATUTES; RELATING TO THE ARIZONA DEPARTMENT OF AGRICULTURE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 3, chapter 1, article 1, Arizona Revised Statutes,
3 is amended by adding section 3-109.03, to read:

4 3-109.03. Livestock operator fire and flood assistance grant
5 program; requirements; fund; exemption;
6 definition

7 A. THE LIVESTOCK OPERATOR FIRE AND FLOOD ASSISTANCE GRANT PROGRAM
8 IS ESTABLISHED UNDER THE DEPARTMENT TO PROVIDE GRANT MONIES TO LANDOWNERS
9 AND LESSEES OF A LIVESTOCK OPERATION OF MORE THAN FORTY ANIMALS UNDER
10 NORMAL OPERATING CONDITIONS FOR INFRASTRUCTURE PROJECTS THAT ARE REQUIRED
11 AS A RESULT OF A WILDFIRE AND ASSOCIATED FLOODING AND THAT ARE EITHER:

- 12 1. NOT ELIGIBLE FOR FUNDING FROM ANOTHER FEDERAL OR STATE PROGRAM.
13 2. PARTIALLY FUNDED BY ANOTHER FEDERAL OR STATE PROGRAM.

14 B. THE DEPARTMENT SHALL:

15 1. DEVELOP GUIDELINES AND CRITERIA TO IMPLEMENT THE PROGRAM,
16 INCLUDING AN APPLICATION PROCESS THAT INCLUDES A DESCRIPTION OF THE
17 INTENDED USE FOR THE GRANT MONIES.

18 2. AWARD ALL GRANTS PURSUANT TO TITLE 41, CHAPTER 24.

19 3. NOT GRANT MORE THAN FIFTY PERCENT OF THE MONIES IN THE LIVESTOCK
20 OPERATOR FIRE AND FLOOD ASSISTANCE FUND FOR INFRASTRUCTURE PROJECTS ON
21 LAND IN ONE COUNTY IN ANY FISCAL YEAR.

22 4. ENSURE THAT GRANTS FROM THE LIVESTOCK OPERATOR FIRE AND FLOOD
23 ASSISTANCE PROGRAM DO NOT EXCEED MORE THAN:

24 (a) FIFTY PERCENT OF THE TOTAL COSTS OF ANY INFRASTRUCTURE PROJECT.

25 (b) AN AGGREGATE OF \$250,000 PER LIVESTOCK OPERATION FOR
26 INFRASTRUCTURE PROJECTS THAT ARE REQUIRED AS A RESULT OF A SINGLE WILDFIRE
27 AND THAT WILDFIRE'S ASSOCIATED FLOODING.

28 5. REQUIRE EACH GRANTEE TO SUBMIT TO THE DEPARTMENT, WITHIN TWELVE
29 MONTHS AFTER RECEIVING THE GRANT, A WRITTEN REPORT DETAILING HOW THE GRANT
30 MONIES WERE USED TO ACHIEVE THE INFRASTRUCTURE PROJECT DESCRIBED IN THE
31 APPLICATION. IF THE INFRASTRUCTURE PROJECT TAKES LONGER THAN ONE YEAR TO
32 COMPLETE, THE GRANTEE SHALL SUBMIT A WRITTEN REPORT TO THE DEPARTMENT
33 ANNUALLY UNTIL THE INFRASTRUCTURE PROJECT IS COMPLETE.

34 6. ON OR BEFORE DECEMBER 31 OF EACH YEAR, SUBMIT A REPORT OF THE
35 DISPOSITION OF MONIES APPROPRIATED TO THE LIVESTOCK OPERATOR FIRE AND
36 FLOOD ASSISTANCE FUND EACH FISCAL YEAR TO THE GOVERNOR, THE PRESIDENT OF
37 THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND SHALL
38 PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF STATE AND TO ANY PERSON
39 WHO REQUESTS A COPY.

40 C. THE DEPARTMENT IS EXEMPT FROM TITLE 41, CHAPTER 6 WITH RESPECT
41 TO ADOPTING RULES FOR THE PURPOSES OF THIS SECTION, EXCEPT THAT THE
42 DEPARTMENT SHALL PROVIDE FOR PUBLIC NOTICE AND SIXTY DAYS FOR PUBLIC
43 COMMENT ON THE ANNUAL GRANT GUIDELINES AND CRITERIA, INCLUDING PUBLIC
44 HEARINGS.

1 D. THE LIVESTOCK OPERATOR FIRE AND FLOOD ASSISTANCE FUND IS
2 ESTABLISHED CONSISTING OF FEDERAL MONIES, LEGISLATIVE APPROPRIATIONS FROM
3 THE STATE GENERAL FUND, PUBLIC AND PRIVATE GRANTS AND PRIVATE DONATIONS
4 RECEIVED FOR THE PURPOSE OF PROVIDING GRANT MONIES TO LANDOWNERS AND
5 LESSEES OF A LIVESTOCK OPERATION FOR INFRASTRUCTURE PROJECTS PURSUANT TO
6 THIS SECTION. THE DEPARTMENT SHALL ADMINISTER THE FUND. MONIES IN THE
7 FUND ARE CONTINUOUSLY APPROPRIATED. ON NOTICE FROM THE DEPARTMENT, THE
8 STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY
9 SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE
10 FUND. MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190
11 RELATING TO LAPSING OF APPROPRIATIONS.

12 E. THE DEPARTMENT MAY USE UP TO FIVE PERCENT OF THE MONIES
13 APPROPRIATED TO THE LIVESTOCK OPERATOR FIRE AND FLOOD ASSISTANCE FUND IN
14 ANY FISCAL YEAR FOR THE PURPOSES OF ADMINISTERING THE PROGRAM.

15 F. FOR THE PURPOSES OF THIS SECTION, "INFRASTRUCTURE" INCLUDES
16 WELLS, BUILDINGS, FENCES, PIPELINES, SPRING AND WATER DEVELOPMENTS,
17 CORRALS AND OTHER ESSENTIAL COMPONENTS TO A LIVESTOCK OPERATION.

18 Sec. 2. Section 41-1005, Arizona Revised Statutes, is amended to
19 read:

20 41-1005. Exemptions

21 A. This chapter does not apply to any:

22 1. Rule that relates to the use of public works, including streets
23 and highways, under the jurisdiction of an agency if the effect of the
24 order is indicated to the public by means of signs or signals.

25 2. Order or rule of the Arizona game and fish commission that does
26 the following:

27 (a) Opens, closes or alters seasons or establishes bag or
28 possession limits for wildlife.

29 (b) Establishes a fee pursuant to section 5-321, 5-322 or 5-327.

30 (c) Establishes a license classification, fee or application fee
31 pursuant to title 17, chapter 3, article 2.

32 3. Rule relating to section 28-641 or to any rule regulating motor
33 vehicle operation that relates to speed, parking, standing, stopping or
34 passing enacted pursuant to title 28, chapter 3.

35 4. Rule concerning only the internal management of an agency that
36 does not directly and substantially affect the procedural or substantive
37 rights or duties of any segment of the public.

38 5. Rule that only establishes specific prices to be charged for
39 particular goods or services sold by an agency.

40 6. Rule concerning only the physical servicing, maintenance or care
41 of agency owned or operated facilities or property.

42 7. Rule or substantive policy statement concerning inmates or
43 committed youths of a correctional or detention facility in secure custody
44 or patients admitted to a hospital, if made by the state department of
45 corrections, the department of juvenile corrections, the board of

- 1 executive clemency or the department of health services or a facility or
2 hospital under the jurisdiction of the state department of corrections,
3 the department of juvenile corrections or the department of health
4 services.
- 5 8. Form whose contents or substantive requirements are prescribed
6 by rule or statute, and instructions for the execution or use of the
7 form.
- 8 9. Capped fee-for-service schedule adopted by the Arizona health
9 care cost containment system administration pursuant to title 36,
10 chapter 29.
- 11 10. Fees prescribed by section 6-125.
- 12 11. Order of the director of water resources adopting or modifying
13 a management plan pursuant to title 45, chapter 2, article 9.
- 14 12. Fees established under section 3-1086.
- 15 13. Fees established under sections 41-4010 and 41-4042.
- 16 14. Rule or other matter relating to agency contracts.
- 17 15. Fees established under section 32-2067 or 32-2132.
- 18 16. Rules made pursuant to section 5-111, subsection A.
- 19 17. Rules made by the Arizona state parks board concerning the
20 operation of the Tonto natural bridge state park, the facilities located
21 in the Tonto natural bridge state park and the entrance fees to the Tonto
22 natural bridge state park.
- 23 18. Fees or charges established under section 41-511.05.
- 24 19. Emergency medical services protocols except as provided in
25 section 36-2205, subsection B.
- 26 20. Fee schedules established pursuant to section 36-3409.
- 27 21. Procedures of the state transportation board as prescribed in
28 section 28-7048.
- 29 22. Rules made by the state department of corrections.
- 30 23. Fees prescribed pursuant to section 32-1527.
- 31 24. Rules made by the department of economic security pursuant to
32 section 46-805.
- 33 25. Schedule of fees prescribed by section 23-908.
- 34 26. Procedure that is established pursuant to title 23, chapter 6,
35 article 6.
- 36 27. Rules, administrative policies, procedures and guidelines
37 adopted for any purpose by the Arizona commerce authority pursuant to
38 chapter 10 of this title if the authority provides, as appropriate under
39 the circumstances, for notice of an opportunity for comment on the
40 proposed rules, administrative policies, procedures and guidelines.
- 41 28. Rules made by a marketing commission or marketing committee
42 pursuant to section 3-414.
- 43 29. Administration of public assistance program monies authorized
44 for liabilities that are incurred for disasters declared pursuant to
45 sections 26-303 and 35-192.

1 30. User charges, tolls, fares, rents, advertising and sponsorship
2 charges, services charges or similar charges established pursuant to
3 section 28-7705.

4 31. Administration and implementation of the hospital assessment
5 pursuant to section 36-2901.08, except that the Arizona health care cost
6 containment system administration must provide notice and an opportunity
7 for public comment at least thirty days before establishing or
8 implementing the administration of the assessment.

9 32. Rules made by the Arizona department of agriculture to adopt
10 and implement the provisions of the federal milk ordinance as prescribed
11 by section 3-605.

12 33. Rules made by the Arizona department of agriculture to adopt,
13 implement and administer the United States food and drug administration
14 produce safety rule (21 Code of Federal Regulations part 112) and any
15 other federal produce safety regulation, order or guideline or other
16 requirement adopted pursuant to the FDA food safety modernization act
17 (P.L. 111-353; 21 United States Code sections 2201 through 2252) as
18 provided by title 3, chapter 3, article 4.1.

19 34. Calculations performed by the department of economic security
20 associated with the adjustment of the sliding fee scale and formula for
21 determining child care assistance pursuant to section 46-805.

22 35. RULES MADE BY THE ARIZONA DEPARTMENT OF AGRICULTURE TO
23 IMPLEMENT AND ADMINISTER THE LIVESTOCK OPERATOR FIRE AND FLOOD ASSISTANCE
24 GRANT PROGRAM ESTABLISHED BY SECTION 3-109.03.

25 B. Notwithstanding subsection A, paragraph 21 of this section, ~~at~~
26 ~~such time as~~ IF the federal highway administration authorizes the
27 privatization of rest areas, the state transportation board shall make
28 rules governing the lease or license by the department of transportation
29 to a private entity for the purposes of privatization of a rest area.

30 C. Coincident with the making of a final rule pursuant to an
31 exemption from the applicability of this chapter under this section,
32 another statute or session law, the agency shall:

33 1. Prepare a notice and follow formatting guidelines prescribed by
34 the secretary of state.

35 2. Prepare the rulemaking exemption notices pursuant to chapter 6.2
36 of this title.

37 3. File a copy of the rule with the secretary of state for
38 publication pursuant to section 41-1012 and provide a copy to the council.

39 D. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
40 chapter do not apply to the Arizona board of regents and the institutions
41 under its jurisdiction, except that the Arizona board of regents shall
42 make policies or rules for the board and the institutions under its
43 jurisdiction that provide, as appropriate under the circumstances, for
44 notice of and opportunity for comment on the policies or rules proposed.

1 E. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
2 chapter do not apply to the Arizona state schools for the deaf and the
3 blind, except that the board of directors of all the state schools for the
4 deaf and the blind shall adopt policies for the board and the schools
5 under its jurisdiction that provide, as appropriate under the
6 circumstances, for notice of and opportunity for comment on the policies
7 proposed for adoption.

8 F. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
9 chapter do not apply to the state board of education, except that the
10 state board of education shall adopt policies or rules for the board and
11 the institutions under its jurisdiction that provide, as appropriate under
12 the circumstances, for notice of and opportunity for comment on the
13 policies or rules proposed for adoption. In order to implement or change
14 any rule, the state board of education shall provide at least two
15 opportunities for public comment. The state board of education shall
16 consider the fiscal impact of any proposed rule pursuant to this
17 subsection.

18 G. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
19 chapter do not apply to the state board for charter schools, except that
20 the board shall adopt policies or rules for the board and the charter
21 schools sponsored by the board that provide, as appropriate under the
22 circumstances, for notice of and opportunity for comment on the policies
23 or rules proposed for adoption. In order to implement or change any
24 policy or rule, the board shall provide at least two opportunities for
25 public comment. The state board for charter schools shall consider the
26 fiscal impact of any proposed rule pursuant to this subsection.

27 Sec. 3. Emergency

28 This act is an emergency measure that is necessary to preserve the
29 public peace, health or safety and is operative immediately as provided by
30 law.