

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

# HB 2861

Introduced by  
Representative Cobb (with permission of Committee on Rules)

## AN ACT

AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 41-1510; AMENDING SECTION 49-210, ARIZONA REVISED STATUTES;  
AMENDING TITLE 49, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 49-211; APPROPRIATING MONIES; RELATING TO THE ENVIRONMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 41, chapter 10, article 1, Arizona Revised  
3 Statutes, is amended by adding section 41-1510, to read:

4 41-1510. Water infrastructure and commerce grant fund

5 A. THE WATER INFRASTRUCTURE AND COMMERCE GRANT FUND IS ESTABLISHED  
6 CONSISTING OF LEGISLATIVE APPROPRIATIONS, FEDERAL MONIES AND PRIVATE  
7 DONATIONS. THE CHIEF EXECUTIVE OFFICER SHALL ADMINISTER THE FUND. MONIES  
8 IN THE FUND ARE CONTINUOUSLY APPROPRIATED AND ARE EXEMPT FROM THE  
9 PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.  
10 MONIES IN THE FUND MAY BE USED TO PROVIDE GRANTS TO ELIGIBLE ENTITIES FOR  
11 CONTRACTING FOR THE DESIGN AND CONSTRUCTION OF WATER INFRASTRUCTURE AT THE  
12 ELIGIBLE ENTITY'S LOCATION. THE AUTHORITY MAY RETAIN UP TO ONE PERCENT OF  
13 THE MONIES IN THE FUND ANNUALLY TO ADMINISTER THE FUND.

14 B. THE FOLLOWING ENTITIES ARE ELIGIBLE TO APPLY FOR AND RECEIVE  
15 GRANT MONIES PURSUANT TO THIS SECTION:

16 1. A PUBLIC SERVICE CORPORATION THAT PROVIDES WATER SERVICE  
17 PURSUANT TO A CERTIFICATE OF CONVENIENCE AND NECESSITY ISSUED BY THE  
18 CORPORATION COMMISSION AND THAT IS ACTING ON BEHALF OF AN EMPLOYER  
19 PRESCRIBED IN PARAGRAPH 2 OF THIS SUBSECTION.

20 2. AN EMPLOYER WITH MORE THAN TWO HUNDRED FIFTY EMPLOYEES THAT IS  
21 LOCATED IN A COUNTY WITH A POPULATION OF MORE THAN FOUR HUNDRED THOUSAND  
22 PERSONS AND LESS THAN ONE MILLION PERSONS.

23 C. THE AUTHORITY SHALL:

24 1. PRESCRIBE A SIMPLIFIED FORM AND PROCEDURE TO APPLY FOR AND  
25 APPROVE GRANTS.

26 2. ESTABLISH REQUIREMENTS AND CRITERIA BY WHICH GRANTS WILL BE  
27 AWARDED, WHICH SHALL INCLUDE AT LEAST THE FOLLOWING:

28 (a) GRANTS TO ELIGIBLE APPLICANTS ONLY FOR NEW WATER INFRASTRUCTURE  
29 PROJECTS THAT ARE LOCATED AT THE ELIGIBLE APPLICANT'S PROPERTY IN A COUNTY  
30 WITH A POPULATION OF MORE THAN FOUR HUNDRED THOUSAND PERSONS AND LESS THAN  
31 ONE MILLION PERSONS.

32 (b) GRANTS FOR PROJECTS THAT CREATE NEW JOBS.

33 (c) GRANTS FOR PROJECTS THAT BEGIN AFTER JANUARY 1, 2022.

34 (d) GRANTS THAT ARE ALLOCATED AND DISTRIBUTED NOT LATER THAN  
35 DECEMBER 31, 2024.

36 (e) APPLICANTS MAY RECEIVE MORE FAVORABLE CONSIDERATION FOR GRANT  
37 MONIES IF THE APPLICANT INCLUDES COLLABORATION AND COOPERATION WITH OTHER  
38 MEMBERS AND ENTITIES IN THE COMMUNITY.

39 (f) APPLICANTS SHALL CERTIFY THAT THEY ARE ELIGIBLE TO RECEIVE  
40 GRANT MONIES, SHALL DESCRIBE THE PROJECT AND SERVICES REQUESTED AND WHY  
41 THE PROJECT AND SERVICES ARE NEEDED AND SHALL CERTIFY THAT ALL GRANT  
42 MONIES WILL BE USED IN COMPLIANCE WITH THIS SECTION, THE AUTHORITY'S  
43 REQUIREMENTS, THE APPLICATION REQUIREMENTS AND PROCESSES AND OTHERWISE  
44 APPLICABLE LAW.

1 D. BEFORE AWARDING A GRANT PURSUANT TO THIS SECTION, THE AUTHORITY  
2 SHALL PREPARE A WRITTEN STATEMENT THAT IS SIGNED BY THE CHIEF EXECUTIVE  
3 OFFICER, THAT ASSESSES THE DIRECT ECONOMIC IMPACT OF THE GRANT, INCLUDING  
4 THE NUMBER OF NEW JOBS THAT WILL BE CREATED, AND THAT CONTAINS A FINDING  
5 THAT THE AWARD OF GRANT MONIES IS IN THE BEST INTEREST OF THIS STATE.

6 E. ON OR BEFORE DECEMBER 15 OF EACH YEAR, THE AUTHORITY SHALL  
7 SUBMIT AN ANNUAL REPORT TO THE JOINT LEGISLATIVE BUDGET COMMITTEE. THE  
8 REPORT SHALL INCLUDE, AT A MINIMUM, THE AMOUNT OF ACTUAL EXPENDITURES FROM  
9 THE FUND BY PROJECT AND AN EXPENDITURE PLAN FOR ALL REMAINING MONIES BY  
10 PROJECT.

11 Sec. 2. Section 49-210, Arizona Revised Statutes, is amended to  
12 read:

13 49-210. Water quality fee fund; appropriation; exemption;  
14 monies held in trust

15 A. The water quality fee fund is established consisting of monies  
16 appropriated by the legislature and fees received pursuant to sections  
17 49-104, 49-203, 49-211, 49-241, 49-241.02, 49-242, 49-255.01, 49-332,  
18 49-352, 49-353 and 49-361. The director shall administer the fund.

19 B. Monies in the fund are subject to annual legislative  
20 appropriation to the department for water quality programs. Monies in the  
21 fund are exempt from the provisions of section 35-190 relating to lapsing  
22 of appropriations.

23 C. On notice from the director, the state treasurer shall invest  
24 and divest monies in the fund as provided by section 35-313, and monies  
25 earned from investment shall be credited to the fund.

26 D. Monies in the water quality fee fund shall be used for the  
27 following purposes:

- 28 1. To issue aquifer protection permits pursuant to section 49-241.
- 29 2. The aquifer protection permit registration fee procedures  
30 pursuant to section 49-242.
- 31 3. Dry well registration fee procedures pursuant to section 49-332.
- 32 4. Technical review fee procedures pursuant to section 49-353.
- 33 5. Inspection fee procedures pursuant to section 49-104,  
34 subsection C.
- 35 6. To issue permits under the Arizona pollutant discharge  
36 elimination system program pursuant to section 49-255.01.
- 37 7. Operator certification pursuant to sections 49-352 and 49-361.
- 38 8. Paying the cost of implementing section 49-203, subsection A,  
39 paragraph 7 and section 49-221, subsection E.
- 40 9. Water quality monitoring pursuant to section 49-225 and  
41 reporting of aquifer pollution information pursuant to section 49-249.
- 42 10. To implement and administer the underground injection control  
43 permit program established pursuant to article 3.3 of this chapter.

1 11. To implement and administer the dredge and fill permit program  
2 established pursuant to article 3.2 of this chapter, including review and  
3 analysis for issuing jurisdictional determinations.

4 E. Any fee, assessment or other levy that is authorized by law or  
5 administrative rule and that is collected and deposited in the water  
6 quality fee fund shall be held in trust. The monies in the fund may be  
7 used only for the purposes prescribed by statute and shall not be  
8 appropriated or transferred by the legislature to fund the general  
9 operations of this state or to otherwise meet the obligations of the  
10 general fund of this state. This subsection does not apply to any taxes  
11 or other levies that are imposed pursuant to title 42 or 43.

12 Sec. 3. Title 49, chapter 2, article 1, Arizona Revised Statutes,  
13 is amended by adding section 49-211, to read:

14 49-211. Direct potable reuse of treated wastewater: fees:  
15 rules

16 A. ON OR BEFORE DECEMBER 31, 2024, THE DIRECTOR SHALL ESTABLISH BY  
17 RULE PERMIT FEES SUFFICIENT TO ADMINISTER A DIRECT POTABLE REUSE OF  
18 TREATED WASTEWATER PROGRAM. MONIES COLLECTED PURSUANT TO THIS SECTION  
19 SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE WATER  
20 QUALITY FEE FUND ESTABLISHED BY SECTION 49-210.

21 B. ON OR BEFORE DECEMBER 31, 2024, THE DIRECTOR SHALL ADOPT ALL  
22 RULES NECESSARY TO ESTABLISH AND IMPLEMENT A DIRECT POTABLE REUSE OF  
23 TREATED WASTEWATER PROGRAM, INCLUDING RULES ESTABLISHING PERMITTING  
24 STANDARDS AND A PERMIT APPLICATION PROCESS.

25 Sec. 4. Arizona water protection fund; use of monies

26 Notwithstanding section 45-2114, Arizona Revised Statutes, in fiscal  
27 year 2022-2023, the Arizona water protection fund commission may grant to  
28 the department of water resources up to \$336,000 of the unobligated  
29 balance in the Arizona water protection fund established by section  
30 45-2111, Arizona Revised Statutes, to pay for administrative costs of the  
31 department in fiscal year 2022-2023.

32 Sec. 5. Underground storage tank revolving fund; use of  
33 monies

34 Notwithstanding any other law, in fiscal year 2022-2023, the  
35 department of environmental quality may use up to \$6,531,000 from the  
36 underground storage tank revolving fund established by section 49-1015,  
37 Arizona Revised Statutes, in fiscal year 2022-2023 for:

- 38 1. Administrative costs of the department.
- 39 2. Remediating sewage discharge issues in Naco, Arizona and other  
40 border areas of this state.

41 Sec. 6. Arizona water banking fund; use of monies

42 In addition to the purposes provided in section 45-2425, Arizona  
43 Revised Statutes, monies appropriated to the Arizona navigable stream  
44 adjudication commission from the Arizona water banking fund established by

1 section 45-2425, Arizona Revised Statutes, may be used in fiscal year  
2 2022-2023 to pay legal fees.

3 Sec. 7. Appropriation limit; water quality assurance  
4 revolving fund

5 Notwithstanding section 49-282, Arizona Revised Statutes, the  
6 appropriation from the state general fund to the water quality assurance  
7 revolving fund established by section 49-282, Arizona Revised Statutes,  
8 for fiscal year 2022-2023 may not exceed \$15,000,000.

9 Sec. 8. Department of environmental quality; vehicle  
10 emissions testing fees; exemption from rulemaking

11 A. Notwithstanding any other law, the director of environmental  
12 quality shall charge fees in fiscal year 2022-2023 that are not more than  
13 the fees that were charged in fiscal year 2021-2022 for tests conducted in  
14 Area A, as defined in section 49-541, Arizona Revised Statutes.

15 B. The department of environmental quality is exempt from the  
16 rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes,  
17 until July 1, 2023 for the purpose of establishing fees pursuant to this  
18 section.

19 Sec. 9. Agricultural fees; continuation; intent; rulemaking  
20 exemption

21 A. Notwithstanding any other law, the director of the Arizona  
22 department of agriculture, with the assistance of the department of  
23 agriculture advisory council, may continue, increase or lower existing  
24 fees from fiscal years 2020-2021 and 2021-2022 in fiscal year 2022-2023  
25 for services provided in fiscal year 2022-2023.

26 B. The legislature intends that the additional revenue generated by  
27 the fees prescribed in subsection A of this section not exceed \$218,000 to  
28 the state general fund, \$113,000 to the pesticide trust fund established  
29 by section 3-350, Arizona Revised Statutes, and \$26,000 to the dangerous  
30 plants, pests and diseases trust fund established by section 3-214.01,  
31 Arizona Revised Statutes, in fiscal year 2022-2023.

32 C. The Arizona department of agriculture is exempt from the  
33 rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes,  
34 until July 1, 2023 for the purpose of establishing fees pursuant to this  
35 section.