

REFERENCE TITLE: augmentation; Phoenix; Pinal; Tucson; AMA

State of Arizona
House of Representatives
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HB 2182

Introduced by
Representatives Kolodin: Chaplik, Heap, McGarr, Parker B, Smith; Senator
Hoffman

AN ACT

AMENDING SECTIONS 49-1210, 49-1303 AND 49-1304, ARIZONA REVISED STATUTES;
RELATING TO THE LONG-TERM WATER AUGMENTATION FUND.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 49-1210, Arizona Revised Statutes, is amended to
3 read:

4 49-1210. Limitations on water activities

5 A. The authority may not purchase any mainstream Colorado River
6 water or rights to mainstream Colorado River water and may not provide
7 funding or financial assistance to transfer, purchase or lease any such
8 water or rights to such water, except that this prohibition does not apply
9 to any water or rights to water held by a federally recognized Indian
10 tribe or to purchases made with monies from the clean water revolving fund
11 established by section 49-1221 or the drinking water revolving fund
12 established by section 49-1241. For purposes of this subsection,
13 "mainstream Colorado River water" means Colorado River water that is
14 available to satisfy entitlements in this state but that is not delivered
15 through the central Arizona project.

16 B. The authority may not enter into any agreements to convey or
17 deliver water to a water user within the incorporated boundaries of a city
18 or town, **WITHIN** a city or town water service area or within the boundaries
19 of a certificate of convenience and necessity of a private water company
20 without the written consent of the city, town or private water company.

21 C. The authority may not operate or maintain any water-related
22 facilities but may enter into agreements with public or private entities
23 to operate or maintain water-related facilities owned or constructed by
24 the authority.

25 D. Except as provided in section 49-1203.01, subsection C,
26 paragraph 4, the authority may not acquire or own water-related facilities
27 that are either:

28 1. Located within this state and used to convey or deliver water
29 that is not imported water.

30 2. Located outside this state.

31 E. If the authority acquires imported water or long-term storage
32 credits created from imported water in its own name, the authority may not
33 sell or lease that water or those long-term storage credits for amounts
34 greater than necessary to comply with section 49-1303, subsection ~~E~~ F or
35 to repay long-term water augmentation bonds issued to fund any project to
36 acquire the imported water or long-term storage credits.

37 Sec. 2. Section 49-1303, Arizona Revised Statutes, is amended to
38 read:

39 49-1303. Long-term water augmentation fund; purposes;
40 limitation

41 A. Monies and other assets in the long-term water augmentation fund
42 may be used for the following purposes:

43 1. Funding water supply development projects that import water from
44 outside the boundaries of this state **OR THAT CREATE NEW WATER SOURCES**
45 **WITHIN THIS STATE**. At least seventy-five percent of the monies in the

1 fiscal years 2022-2023, 2023-2024 and 2024-2025 appropriations to the fund
2 shall be reserved for one or more projects with this purpose, and those
3 monies shall be accounted for separately.

4 2. Purchasing imported water or rights to imported water OR
5 PURCHASING NEW WATER OR RIGHTS TO USE NEW WATER CREATED WITHIN THIS
6 STATE. MONIES ISSUED FOR THIS PURPOSE SHALL NOT BE USED TO PURCHASE
7 EXISTING WATER OR RIGHTS TO EXISTING WATER FROM IN-STATE USERS UNLESS THE
8 PURCHASE OF SUCH WATER OR RIGHTS TO SUCH WATER IS RELATED TO THE CREATION
9 OF NEW WATER OR RIGHTS TO NEW WATER CREATED WITHIN THIS STATE.

10 3. Acquiring or constructing water-related facilities in this state
11 to convey or deliver imported water within ~~the~~ THIS state OR NEWLY CREATED
12 WATER WITHIN THIS STATE.

13 4. Conducting investigations, including performing environmental or
14 other reviews.

15 5. Contracting for water needs assessments.

16 6. Providing financial assistance to eligible entities for the
17 purposes of financing or refinancing water supply development projects
18 within this state, including projects for conservation through reducing
19 existing water use or more efficient uses of existing water supplies.

20 7. Guaranteeing debt obligations of eligible entities that are
21 issued or incurred to finance or refinance water supply development
22 projects within this state or providing credit enhancements in connection
23 with these debt obligations.

24 8. Paying the costs to administer the fund.

25 9. Funding not more than ten full-time equivalent positions of the
26 authority.

27 B. AT LEAST SEVENTY-FIVE PERCENT OF THE MONIES CONTEMPLATED BY
28 SUBSECTION A, PARAGRAPH 1 OF THIS SECTION AND REMAINING WITHIN THE
29 LONG-TERM AUGMENTATION FUND AS OF THE EFFECTIVE DATE OF THIS AMENDMENT TO
30 THIS SECTION SHALL BE USED TO FUND WATER SUPPLY DEVELOPMENT PROJECTS THAT
31 MEET THE REQUIREMENTS OF SUBSECTION A, PARAGRAPH 1 OF THIS SECTION AND
32 THAT SUPPLY IMPORTED WATER OR NEW WATER TO END USERS LOCATED WITHIN THE
33 PHOENIX, PINAL OR TUCSON ACTIVE MANAGEMENT AREAS.

34 ~~B.~~ C. In providing financial assistance from the fund, the
35 authority shall comply with section 49-1304.

36 ~~C.~~ D. Monies in the fund may not be used to purchase conservation
37 or other similar easements on real property.

38 ~~D.~~ E. If the monies pledged to secure long-term water augmentation
39 bonds issued pursuant to section 49-1309 become insufficient to pay the
40 principal and interest on the long-term water augmentation bonds
41 guaranteed by the fund, the authority shall direct the state treasurer to
42 liquidate securities in the fund as may be necessary and shall apply those
43 proceeds to make current all payments then due on the long-term water
44 augmentation bonds. The state treasurer shall immediately notify the
45 attorney general and auditor general of the insufficiency. The auditor

1 general shall audit the circumstances surrounding the depletion of the
2 fund and report the findings to the attorney general. The attorney
3 general shall conduct an investigation and report those findings to the
4 governor and the legislature.

5 ~~E.~~ F. The authority shall take necessary actions to obtain full
6 repayment for monies or financial assistance provided from the fund by the
7 recipients of the funding or financial assistance or the recipients of any
8 water supply development project made available from monies from the fund
9 through water subcontracts, loan repayments, rates, fees, charges or
10 otherwise, as appropriate. This subsection does not apply to monies spent
11 by the authority for investigations and studies or monies spent in
12 connection with loan guarantees or credit enhancement.

13 Sec. 3. Section 49-1304, Arizona Revised Statutes, is amended to
14 read:

15 49-1304. Evaluation criteria for projects from the long-term
16 water augmentation fund

17 A. The authority shall determine the order and priority of water
18 supply development projects proposed to be funded in whole or in part with
19 monies from the long-term water augmentation fund, participation in
20 projects to import water or allocation of imported water based on the
21 following, as applicable:

22 1. The benefits of the project to current and future residents of
23 this state, including the ability of the project to improve access to
24 water supplies for use within this state and promote economic growth, in
25 relation to the projected cost of the project.

26 2. The ability of the project to provide multiple water supply
27 development benefits.

28 3. The projected costs of the project.

29 4. The ability of the project to address or mitigate water supply
30 reductions to existing water users, considering the existence, feasibility
31 and long-term reliability of mitigation measures available to the
32 applicant or proposed beneficiaries, including the availability of water
33 supplies from the Arizona water banking authority.

34 5. The cost-effectiveness of the project.

35 6. The reliability and long-term security of the water supply to be
36 developed through the project.

37 7. Existing and planned conservation, best management practices and
38 water management programs of the applicant or potential applicant.

39 8. The degree to which the project will maximize or leverage
40 multiple available funding sources, including federal funding.

41 9. The applicant's ability to meet any applicable environmental
42 requirements imposed by any federal or state agency.

43 10. The qualifications, industry experience, including experience
44 with similar projects, general reputation and financial capacity of the
45 applicant or any private partner, based on appropriate due diligence.

- 1 11. The feasibility of the project, including the feasibility of
2 the proposed design and operation of the project.
- 3 12. Comments from water users, local citizens and affected
4 jurisdictions.
- 5 13. For projects involving the construction or operation of
6 water-related facilities, the safety record of any private partner.
- 7 14. Existing, near-term and long-term water demands compared to the
8 volume and reliability of existing water supplies of the beneficiaries of
9 the funding or project. In evaluating this criterion, the authority shall
10 consider information contained in any applicable water supply and demand
11 assessment that has been issued by the director of water resources
12 pursuant to section 45-105, subsection B, paragraph 14, in addition to any
13 other information submitted to evaluate this criterion.
- 14 15. Potential impacts to ratepayers.
- 15 16. The ability of the applicant and any public or private partner
16 to fully repay all financial obligations to the authority.
- 17 17. For agreements entered into pursuant to section 49-1203.01,
18 subsection C, paragraph 5, the impact of any such agreement on the ability
19 of the authority to comply with the requirements of section 49-1303,
20 subsection ~~E~~ F.
- 21 18. Other criteria that the authority deems appropriate.
- 22 B. The board shall conduct background checks, financial checks and
23 other reviews deemed appropriate for individual applicants, applicants'
24 boards of directors and other partners of the applicants.