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House Engrossed Senate Bill

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Jane Dee Hull
Secretary of State

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CHAPTER 121

SENATE BILL 1145

AN ACT

AMENDING SECTIONS 37-101, 37-106.01, 37-108, 37-234, 37-240, 37-623.01 AND 37-1034, ARIZONA REVISED STATUTES; RELATING TO PUBLIC LANDS.

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

Section 1. Section 37-101, Arizona Revised Statutes, is amended to read:

37-101. Definitions

In this title, unless the context otherwise requires:

1. "Agricultural lands" means lands which are used or can be used principally for raising crops, fruits, grains and similar ~~ranch~~ FARM products.

2. "Amortized value" means the value for improvements established pursuant to section 37-281.02, subsection G.

3. "Commercial lands" means lands which can be used principally for business, institutional, religious, charitable, governmental or recreational purposes, or any general purpose other than agricultural, grazing, mining, oil, homesite or rights-of-way.

4. "Commissioner" means the state land commissioner.

5. "Community identity package" means a design theme including such elements as architecture, landscape, lighting, street furniture, walls and signage.

6. "Department" means the state land department.

7. "Grazing lands" means lands which can be used only for the ranging of animals.

8. "Holding lease" means a commercial lease issued solely to grant a limited use leasehold interest in state land in anticipation of future development.

9. "Homesite lands" means lands which are suitable for residential purposes.

10. "Improvements" means anything permanent in character which is the result of labor or capital expended by the lessee or his predecessors in interest on state land in its reclamation or development, and the appropriation of water thereon, and which has enhanced the value of the land.

11. "Infrastructure" means facilities or amenities, such as streets, utilities, landscaping and open space, which are constructed or located on state lands and which are intended to benefit more than the land on which they are immediately located by enhancing the development potential and value of the state lands impacted by the facility or amenities.

12. "Leapfrog development" means the development of lands in a manner requiring the extension of public facilities and services from their existing terminal point through intervening undeveloped areas that are scheduled for development at a later time, according to the plans of the local governing body having jurisdiction for the area and which is responsible for the provision of these facilities and services.

13. "Leased school or university land" means school or university land for which a lease has been issued by the state, or the territory of Arizona, under which the lessee retains rights.

14. "Master developer" means a person who assumes, as a condition of a land disposition, the responsibilities prescribed by the department for infrastructure or community identity package amenities, or both, and for implementing the development plan containing a master plan area.

15. "Participation contract" means a contract arising out of a lease or sale, or both, together with other rights and obligations in trust lands obtained by a master developer whereby the department receives a share of the master developer's revenues generated by subsequent sales, lease assignments or subleases.

16. "Section of land" means an area of land consisting of six hundred forty acres.

17. "State lands" means any land owned or held in trust, or otherwise, by the state, including leased school or university land.

18. "Urban lands" means any state lands which are adjoining existing commercially or homesite developed lands and which are either:

(a) Within the corporate boundaries of a city or town.

(b) Adjacent to the corporate boundaries of a city or town.

(c) Lands for which the designation as urban lands is requested pursuant to section 37-331.01.

19. "Urban sprawl" means the development of lands in a manner requiring the extension of public facilities and services on the periphery of an

existing urbanized area where such extension is not provided for in the existing plans of the local governing body having the responsibility for the provision of these facilities and services to the lands in question.

Sec. 2. Section 37-106.01, Arizona Revised Statutes, is amended to read:

37-106.01. Power to contract for central Arizona project water for use on state lands; payment of costs; selling unallocated water; disposition of revenue from sale of central Arizona project water and water rights

A. The state land department, with the approval of the governor and the joint legislative budget committee, may make contracts for and on behalf of the state with the United States or a multi-county water conservation district, organized under title 48, chapter 22, or both, for the purchase and delivery of water from the central Arizona project for use for municipal and industrial purposes on state lands within such district and to agree to pay therefor an amount equal to that paid by other municipal and industrial users under the project for comparable quantities.

B. The quantity of water for which the department is authorized to contract shall not exceed one hundred thousand acre-feet per annum diverted from the aqueduct system between the Colorado river and the Salt river, and one hundred thousand acre-feet per annum diverted from the system south of the Salt river.

C. All or any part of the rights to water acquired by the department under any such contract may be sold, assigned and transferred to any lessee or purchaser of any of the state lands on which such water has been or is to be used or to any provider of permanent municipal water service to those lands. The department shall not make the purchase or use of central Arizona project water by the lessee a condition to renewal of a lease of state land or by the purchaser or lessee in a sale or new lease where mining of groundwater from state lands will not be involved. The transferee of any rights to water under this subsection must have or obtain before the transfer a contract with either or both the United States or a multi-county water conservation district for service of central Arizona project water for municipal and industrial use. The transferee shall reimburse the department, on a pro rata basis, for all costs and charges, including capital costs and administrative expenses, incurred by the department, as of the time of transfer, under its contract for the purchase and delivery of central Arizona project water under subsection A of this section.

D. The cost of central Arizona project water shall be paid from revenues derived from the transfer of water rights acquired by the department under its contract and from revenues from the sale of central Arizona project municipal and industrial water or, in the event such revenues are not sufficient, such cost shall be a charge against the state, providing such

contract does not violate article IX, section 5, Constitution of Arizona. Nothing in this section shall be construed as creating a lien upon state lands or against the interest of the state therein or as creating an obligation of the state to pay any charges, costs, assessments or debts other than those described in this section.

E. Before the selection board allocates central Arizona project water to specific state trust lands the department, with the board's approval, may enter into interim contracts to sell unallocated central Arizona project water for municipal and industrial uses on state or any other land subject to a determination by a multi-county water conservation district that the proposed action complies with the terms of the applicable subcontract and the central Arizona project master repayment contract and subject to approval of the director of the department of water resources. Purchasers of water under this subsection shall reimburse the department, on a pro rata basis, for all costs and charges, including capital costs and administrative expenses, incurred by the department under its contract for the purchase and delivery of central Arizona project water under subsection A of this section.

F. THE DEPARTMENT, WITH THE APPROVAL OF THE STATE SELECTION BOARD, MAY ENTER INTO CONTRACTS TO UNDERTAKE OR AUTHORIZE THE STORAGE OF CENTRAL ARIZONA PROJECT WATER FOR WHICH THE DEPARTMENT HAS SIGNED A MUNICIPAL AND INDUSTRIAL WATER SERVICE SUBCONTRACT, BUT THAT THE DEPARTMENT HAS NOT OTHERWISE ALLOCATED FOR USE. A PERSON WITH WHOM THE DEPARTMENT CONTRACTS SHALL PAY TO A MULTI-COUNTY WATER CONSERVATION DISTRICT ALL APPLICABLE OPERATION, MAINTENANCE, REPLACEMENT CHARGES ESTABLISHED UNDER THE PROVISIONS OF TITLE 48, CHAPTER 22 ASSOCIATED WITH ANY WATER STORED, BUT SHALL NOT BE RESPONSIBLE FOR CAPITAL COSTS PAID BY THE DEPARTMENT PURSUANT TO ITS CONTRACTS WITH THE MULTI-COUNTY WATER CONSERVATION DISTRICT. EACH CONTRACT BETWEEN THE DEPARTMENT AND ANOTHER PERSON FOR WATER STORAGE SHALL SPECIFY THAT THE WATER STORAGE PERMIT HOLDER FOR THE STORED WATER SHALL ASSIGN TO THE DEPARTMENT A SHARE OF ANY LONG-TERM STORAGE CREDITS ACCRUED PURSUANT TO THE PERMIT AND THAT THE DEPARTMENT'S SHARE OF THE LONG-TERM STORAGE CREDITS SHALL BE NEGOTIATED BASED ON THE PROPORTION OF THE COSTS INCURRED BY THE DEPARTMENT IN THE WATER STORAGE. THE DEPARTMENT MAY SELL LONG-TERM STORAGE CREDITS FOR THE BENEFIT OF THE STATE TRUST LAND AT THE APPRAISED FAIR MARKET VALUE OF THE CREDITS. IN UNDERTAKING WATER STORAGE PURSUANT TO THIS SUBSECTION, THE DEPARTMENT AND THE PERSONS WITH WHOM IT CONTRACTS SHALL COMPLY WITH ALL OF THE PROVISIONS OF TITLE 45, CHAPTER 3.1. FOR THE PURPOSES OF THIS SUBSECTION, "WATER STORAGE", "LONG-TERM STORAGE CREDIT" AND "WATER STORAGE PERMIT" SHALL HAVE THE MEANINGS PRESCRIBED IN SECTION 45-802.01.

~~F.~~ G. The department shall transmit monies received under this section to the state treasurer who shall deposit revenues from the transfer of water rights under subsection C of this section and from the sale of water under subsection E of this section, except for monies attributable to reimbursement of administrative expenses, in the central Arizona project

municipal and industrial repayment fund established by section 37-526. Monies attributable to reimbursement of administrative expenses, under both subsections C and E of this section, shall be deposited in the state general fund.

Sec. 3. Section 37-108, Arizona Revised Statutes, is amended to read:

37-108. Fees

A. The department shall charge fees ~~that do not exceed~~ IN the following amounts:

1. Applications to lease; agreements:
   - (a) Surface lease:
     - (i) Agriculture, new lease for each section or fraction thereof $100
     - (ii) Agricultural, renewal for each lease $100
     - (iii) Commercial, new $200 plus legal advertising costs
     - (iv) Commercial, renewal $100
     - (v) Grazing, new for each section or fraction thereof $100
     - (vi) Grazing renewal for each lease $100
     - (vii) Homesite, new $100
     - (viii) Homesite, renewal $100
   - (b) Urban planning/permits:
     - (i) Classification $100
     - (ii) Development plan $100
   - (c) Subsurface lease/permit/agreement:
     - (i) Mineral materials $100
     - (ii) Prospecting $100
     - (iii) Mineral for each subdivision $100
     - (iv) Oil and gas $100
     - (v) Geothermal $200
2. All assignments of leases, permits, rights-of-way and contracts $200
3. Exchanges of land $1,000 plus appraisal costs
4. Improvements:
   - (a) Application to place $50
   - (b) Land treatment $50
   - (c) Report of improvements without prior approval $50
5. Natural products:
   - (a) Commercial timber $100
   - (b) Other natural products $100

6. Permits:
   (a) Special land use $100
   (b) Recreational: NON-COMMERCIAL ACTIVITIES
      (i) Annual use, per person $15
      (ii) Group of fewer than twenty persons for less than five days $15
      (iii) ANNUAL USE, FAMILY UNIT OF TWO ADULTS AND CHILDREN UNDER 14 YEARS OF AGE $20
      (iv) ANNUAL USE, GROUP OR CLUB $50
7. Reclassification of lands $100
8. Right-of-way . . . . . $100 plus appraisal costs
9. Sales:
   (a) Application to purchase $200 plus legal advertising costs
   (b) Certificate of purchase:
      (i) Issuance $100
      (ii) Transfer $200
   (c) Issuance of patent $100
10. Selling and administrative expenses:
   (a) UP TO three per cent of the consideration paid for all lands sold or long-term leased.
   (b) Two per cent of the first two hundred fifty thousand dollars of the appraised value of all improvements sold or the actual costs of the appraisal of the improvements sold, whichever is greater.
   (c) The actual cost of zoning application fees paid by the department to rezone trust land.
   (d) The actual costs of legal advertising expenses required by law and paid by the department, including costs of advertising hearings, land, leases and rights-of-way.
11. Service fee:
   (a) Replacement of lost documents $50
   (b) Certified copy of documents $10 plus $1 per page
   (c) Returned check . $20
12. Miscellaneous filings, including power of attorney, mortgage, probate documents, divorce documents, deeds of trust, agreements, subleases, rights of entry, applications to open land and other similar documents $50

B. Monies paid as legal advertising costs under subsection A of this section shall be transmitted to the state treasurer for deposit in a special legal advertising revolving fund to be used to pay costs of legal advertising required by the enabling act, the Constitution of Arizona or statute. The fund shall be administered by the commissioner. On notice from the commissioner, the state treasurer shall invest and divest monies in the fund as provided by section 35-313. The state treasurer shall credit monies earned from these investments to the fund.

C. Monies paid as actual costs of zoning application fees paid by the department to rezone trust land under subsection A of this section shall be transmitted to the state treasurer for deposit in a special fund designated the zoning application fees fund. Monies in the fund shall be used to pay zoning application fees if developing trust lands require rezoning by the jurisdiction in which the lands are located. The fund shall be administered by the commissioner. On notice from the commissioner, the state treasurer shall invest and divest monies in the fund as provided by section 35-313. The state treasurer shall credit monies earned from the investments to the fund.

Sec. 4. Section 37-234, Arizona Revised Statutes, is amended to read:

37-234. Sale of agricultural lands without application; limitation on sales of agricultural lands

The state land department may sell agricultural land without application. Sales of agricultural land with or without application shall not exceed two hundred thousand acres in any one year ~~of lands susceptible of immediate use for agricultural purposes, except those susceptible of irrigation from an established reclamation project~~. No more than three hundred twenty acres of a section shall be sold in any one year.

Sec. 5. Section 37-240, Arizona Revised Statutes, is amended to read:

37-240. Limitations on amount of land one person may purchase

A. No person may purchase more than six hundred forty acres of grazing land, or more than one hundred sixty acres of AGRICULTURAL land ~~susceptible of immediate use for agricultural purposes~~.

B. No sales, leases or subleases of state lands shall be made to corporations or associations not qualified to transact business in the state.

Sec. 6. Section 37-623.01, Arizona Revised Statutes, is amended to read:

37-623.01. Forestry administrative districts; personnel

A. The state forester may establish state forestry administrative districts in all eligible areas of this state.

B. The state forester shall establish an equipment program in order to supply the forestry administrative districts. Equipment shall be supplied through both the federal excess property program and purchases of new equipment when warranted.

C. The state forester may hire both permanent and part-time personnel in each such district or other most practical area based upon need and workload.

D. The state forester may:

1. Hire personnel and rent equipment on a temporary basis not to exceed ~~ninety~~ ONE HUNDRED EIGHTY days in order to monitor and suppress ~~wildland~~ WILD LAND fires occurring on state and private lands within any of the forestry administrative districts.

2. Cooperate with other federal, state and local government agencies and any person to establish a reserve of manpower and equipment which may be utilized when needed to suppress ~~wildland~~ WILD LAND fires.

3. Adopt rules necessary to carry out the provisions of this subsection which shall be exempt from existing advertising and certification procedures.

Sec. 7. Section 37-1034, Arizona Revised Statutes, is amended to read:

37-1034. Referendum; election of supervisors

A. Within a reasonable time after the commissioner has recorded his determination that it is in the public interest that a district be organized, and has defined the boundaries thereof, he shall hold a referendum within the proposed district upon the question of the creation of the district, and an election to elect three supervisors. He shall adopt rules for the conduct of such referendum and election and prescribe a procedure for the determination of persons eligible to vote. The referendum and election of supervisors shall be conducted by separate ballots.

B. The ballot for the referendum shall:

1. Describe the boundaries of the proposed district as determined by the commissioner.

2. Contain the propositions: "For the creation of a district" and "against the creation of a district", with a square after each proposition.

3. An instruction to mark an X in the square after the proposition for which the voter wishes to vote.

C. Only owners of land lying within the boundaries of the territory described shall be eligible to vote on the referendum, but any such owner who is not a qualified elector of the district, or any owner who is a qualified elector but is unable because of illness or absence from the district to appear at the polls, may appoint in writing, on a form prescribed by the commissioner, a qualified elector of the district as his agent or proxy. The appointment of agent or proxy shall be presented to the board of election, and if it is found to be bona fide and in proper form, the holder thereof shall be allowed to vote in behalf of the owner executing the appointment on the question of creation of the district only. The appointment shall be filed with the ballots and other election returns.

D. Candidates for supervisor shall file nomination petitions with the commissioner in the manner prescribed by the commissioner. Any qualified elector of the proposed district may sign the petitions of not more than three candidates. The names of candidates shall appear on the election ballot in alphabetical order by surnames, with a square opposite each name, and an instruction to mark an X in the squares opposite the names of not more than three candidates for whom the voter wishes to vote.

E. No informality in the conduct of any referendum or election held under the provisions of this chapter, or in any matter relating thereto, shall invalidate the result thereof if notice has been given substantially as prescribed in section ~~37-932~~ 37-1032, and the referendum and election have been fairly conducted. All expenses of a referendum and election shall be paid by the commissioner.

APPROVED BY THE GOVERNOR APRIL 9, 1996.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 10, 1996.