

House Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 245

HOUSE BILL 2479

AN ACT

AMENDING SECTIONS 17-211, 26-306, 37-622, 41-511.04 AND 41-1713, ARIZONA
REVISED STATUTES; RELATING TO FORESTRY REPORTS TO THE LEGISLATURE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 17-211, Arizona Revised Statutes, is amended to
3 read:

4 17-211. Director; selection; removal; powers and duties;
5 employees

6 A. The commission shall appoint a director of the Arizona game and
7 fish department, who shall be the chief administrative officer of the game
8 and fish department. The director shall receive compensation as determined
9 pursuant to section 38-611. The director shall be selected on the basis of
10 administrative ability and general knowledge of wildlife management. The
11 director shall act as secretary to the commission, and shall serve for a term
12 of five years, but he may be removed by the commission, after public hearing,
13 for inefficiency, neglect of duty or misconduct in office. If the director
14 is removed, the commission shall make, in its minutes, a complete statement
15 of the proceedings and all charges made against the director, and its
16 findings thereon. The director shall not hold any other office, and shall
17 devote his THE entire time to the duties of his office.

18 B. The commission shall prepare an examination for the post of
19 director to comply with the requirements of this title. The examination
20 shall be conducted at the offices of the commission at the capital to
21 establish an active list of eligible applicants. The director shall be
22 selected from those scoring satisfactory grades and having other qualities
23 deemed advisable by the commission. ~~and~~ The commission may call for
24 additional examinations from time to time for selection of a new list of
25 eligible applicants to fill a vacancy.

26 C. The director may appoint employees necessary to carry out the
27 purposes of this title, when funds for the payment of their salaries are
28 appropriated. Department employees shall be located in different sections
29 of the state where their services are most needed. All appointments must be
30 made in accordance with procedures and qualifications established by the
31 commission. Compensation for persons appointed shall be as determined
32 pursuant to section 38-611. The director may dismiss an employee for
33 inefficiency, neglect of duty or misconduct. Such employee shall be entitled
34 to an appeal before the commission after filing a written request for a
35 hearing within thirty days after THE date of discharge. The director shall
36 file in the department office a complete statement of charges made against
37 the employee and the findings thereon after such written request is
38 received. If the employee fails to file such request within the thirty-day
39 period, ~~his rights to THE RIGHT OF~~ appeal are IS waived and the action of the
40 director shall be final.

41 D. The director shall:

42 1. Have general supervision and control of all activities, functions
43 and employees of the department. ~~and shall~~

44 2. Enforce all provisions of this title, including all commission
45 rules ~~and regulations~~.

1 3. COLLABORATE WITH THE STATE FORESTER IN PRESENTATIONS TO LEGISLATIVE
2 COMMITTEES ON ISSUES ASSOCIATED WITH FOREST MANAGEMENT AND WILDFIRE
3 PREVENTION AND SUPPRESSION AS PROVIDED BY SECTION 37-622, SUBSECTION B.

4 E. Game rangers and wildlife managers may, in addition to other
5 duties:

6 1. Execute all warrants issued for a violation of this title.

7 2. Execute subpoenas issued in any matter arising under this title.

8 3. Search without warrant any aircraft, boat, vehicle, box, game bag
9 or other package where there is sufficient cause to believe that wildlife or
10 parts thereof ~~is~~ OF WILDLIFE ARE possessed in violation of law.

11 4. Inspect all wildlife taken or transported and seize all wildlife
12 taken or possessed in violation of law, or showing evidence of illegal
13 taking.

14 5. Seize as evidence devices used illegally in taking wildlife and
15 hold them subject to THE provisions of section 17-240.

16 6. Generally exercise the powers of peace officers with primary duties
17 the enforcement of this title.

18 7. Seize devices that cannot be lawfully used for the taking of
19 wildlife and are being so used and hold and dispose of same THEM pursuant to
20 section 17-240.

21 Sec. 2. Section 26-306, Arizona Revised Statutes, is amended to read:

22 26-306. Powers and duties of the director of emergency
23 management

24 A. The director shall, subject to the approval of the adjutant
25 general:

26 1. Be the administrative head of the division.

27 2. Be the state director for emergency management.

28 3. Make rules necessary for the operation of the division.

29 4. Develop and test plans for meeting any condition constituting a
30 state of emergency or state of war emergency, except those emergency plans
31 specifically assigned by the governor to other state agencies. Such plans
32 shall provide for the effective mobilization and management of personnel and
33 equipment of the state.

34 5. During a state of war emergency, coordinate the emergency
35 activities of all state agencies except the national guard.

36 6. During a state of emergency or a local emergency, coordinate the
37 emergency activities of all state agencies and the national guard.

38 7. Coordinate the use of state personnel, equipment, services and
39 facilities, including communication services, if requested by political
40 subdivisions in support of emergency management activities.

41 8. Coordinate the use of personnel, equipment, services and
42 facilities, including communication services, of one or more political
43 subdivisions in support of any other political subdivision in meeting
44 emergency needs, including search or rescue operations, on the request of the
45 using political subdivision.

1 9. Develop, test and maintain a plan pursuant to section 26-305.01 for
2 response by agencies of this state and its political subdivisions to an
3 accident at a commercial nuclear generating station.

4 10. Every two years submit a recommendation to the legislature in
5 connection with the assessment prescribed by section 26-306.01 with
6 supporting documentation and information.

7 11. COLLABORATE WITH THE STATE FORESTER IN PRESENTATIONS TO LEGISLATIVE
8 COMMITTEES ON ISSUES ASSOCIATED WITH FOREST MANAGEMENT, WILDFIRE PREVENTION
9 AND SUPPRESSION AND WILDFIRE EMERGENCY RESPONSE AND MANAGEMENT AS PROVIDED
10 BY SECTION 37-622, SUBSECTION B.

11 ~~11.~~ 12. Develop, implement and maintain a state hazardous materials
12 emergency response and recovery plan as part of the hazardous materials
13 emergency management program pursuant to section 26-305.02.

14 ~~12.~~ 13. Coordinate the development, implementation and maintenance of
15 standardized curricula for hazardous materials training and education.

16 B. The director may, subject to the approval of the adjutant general:

17 1. Propose, develop, negotiate and consummate contractual arrangements
18 with the federal government, state agencies and political subdivisions for
19 technical, administrative and financial support from the federal, state and
20 local government in connection with the emergency management activities of
21 the state.

22 2. Represent the state at conferences in the development and promotion
23 of the emergency management capability of the state.

24 3. Establish a disaster prevention council to plan for disaster
25 prevention. The council shall consist of the members of the state emergency
26 council and other members as determined by the director. The disaster
27 prevention council shall coordinate the disaster prevention expertise of
28 representatives of federal, state and local business and industry and promote
29 partnerships to substantially reduce property loss from natural and
30 technological disasters.

31 Sec. 3. Section 37-622, Arizona Revised Statutes, is amended to read:

32 37-622. Duties of state forester; acceptance of federal law

33 A. The state forester is designated as the agent of the state of
34 Arizona and shall administer the provisions of this chapter.

35 B. DURING THE FIRST REGULAR SESSION OF EACH LEGISLATURE, THE STATE
36 FORESTER SHALL PRESENT INFORMATION TO THE LEGISLATIVE COMMITTEES WITH
37 JURISDICTION OVER FORESTRY ISSUES. THE STATE FORESTER SHALL COLLABORATE
38 WITH, AND INVITE THE PARTICIPATION OF, RELEVANT STATE, FEDERAL AND LOCAL
39 GOVERNMENTAL OFFICERS AND AGENCIES. A WRITTEN REPORT IS NOT REQUIRED, BUT
40 THE PRESENTATION SHALL INCLUDE INFORMATION CONCERNING:

41 1. FORESTRY MANAGEMENT, INCLUDING THE CURRENT CONDITIONS OF THE
42 FORESTS IN THIS STATE ON FEDERAL, STATE AND PRIVATE PROPERTY AS AFFECTED BY
43 FEDERAL, STATE AND LOCAL PUBLIC POLICIES, CLIMATIC CONDITIONS, WILDFIRE
44 HAZARDS, PEST INFESTATIONS, OVERGROWTH AND OVERGROWTH CONTROL POLICIES AND

1 METHODS AND THE EFFECTS OF CURRENT FEDERAL POLICY ON FOREST MANAGEMENT AND
2 IMPACTS ON FOREST LAND MANAGEMENT.

3 2. THE WILDLAND-URBAN INTERFACE, INCLUDING THE EFFECTS OF COUNTY AND
4 MUNICIPAL ZONING POLICIES AND WILDFIRE HAZARDS ON PUBLIC AND PRIVATE
5 PROPERTY.

6 3. WILDFIRE EMERGENCY MANAGEMENT ISSUES, INCLUDING:

7 (a) INTERGOVERNMENTAL AND INTERAGENCY PRIMACY, COOPERATION,
8 COORDINATION, ROLES AND TRAINING OF FEDERAL, STATE AND LOCAL FORESTRY,
9 FIREFIGHTING AND LAW ENFORCEMENT AGENCIES.

10 (b) CHANNELS AND METHODS OF COMMUNICATING EMERGENCY INFORMATION TO THE
11 PUBLIC.

12 (c) THE ROLES OF GOVERNMENTAL AND NONGOVERNMENTAL DISASTER RELIEF
13 AGENCIES AND ORGANIZATIONS.

14 (d) THE LEVEL OF FEDERAL, STATE AND LOCAL EMERGENCY FUNDING.

15 ~~B.~~ C. The state forester may:

16 1. Furnish technical advice to the people of the state on forestry
17 matters.

18 2. Do all other acts necessary to take advantage of and carry out the
19 provisions of the act of Congress described in subsection ~~C.~~ D.

20 ~~C.~~ D. This state accepts the provisions of the cooperative forestry
21 assistance act of 1978 (P.L. 95-313; 92 Stat. 365; 16 United States Code
22 chapter 41) providing for federal forestry assistance programs to states.

23 Sec. 4. Section 41-511.04, Arizona Revised Statutes, is amended to
24 read:

25 41-511.04. Duties; board; partnership fund; state historic
26 preservation officer

27 A. The board shall:

28 1. Select areas of scenic beauty, natural features and historical
29 properties now owned by the state, except properties in the care and custody
30 of other agencies by virtue of agreement with the state or as established by
31 law, for management, operation and further development as state parks and
32 historical monuments.

33 2. Manage, develop and operate state parks, monuments or trails
34 established or acquired pursuant to law, or previously granted to the state
35 for park or recreation purposes, except those falling under the jurisdiction
36 of other state agencies as established by law.

37 3. Investigate lands owned by the state to determine in cooperation
38 with the agency that manages the land which tracts should be set aside and
39 dedicated for use as state parks, monuments or trails.

40 4. Investigate federally owned lands to determine their desirability
41 for use as state parks, monuments or trails and negotiate with the federal
42 agency having jurisdiction over such lands for the transfer of title to the
43 Arizona state parks board.

1 5. Investigate privately owned lands to determine their desirability
2 as state parks, monuments or trails and negotiate with private owners for the
3 transfer of title to the Arizona state parks board.

4 6. Enter into agreements with the United States, other states or local
5 governmental units, private societies or persons for the development and
6 protection of state parks, monuments and trails.

7 7. Plan, coordinate and administer a state historic preservation
8 program including the program established pursuant to the national historic
9 preservation act of 1966, as amended.

10 8. Advise, assist and cooperate with federal and state agencies,
11 political subdivisions of this state and other persons in identifying and
12 preserving properties of historic or prehistoric significance.

13 9. Keep and administer an Arizona register of historic places composed
14 of districts, sites, buildings, structures and objects significant in this
15 state's history, architecture, archaeology, engineering and culture which
16 meet criteria which the board establishes or which are listed on the national
17 register of historic places. Entry on the register requires nomination by
18 the state historic preservation officer and owner notification in accordance
19 with rules which the board adopts.

20 10. Accept, on behalf of the state historic preservation officer,
21 applications for classification as historic property received from the county
22 assessor.

23 11. Adopt rules with regard to classification of historic property
24 including:

25 (a) Minimum maintenance standards for the property.

26 (b) Requirements for documentation.

27 12. Monitor the performance of state agencies in the management of
28 historic properties as provided in chapter 4.2 of this title.

29 13. Advise the governor on historic preservation matters.

30 14. Plan and administer a statewide parks and recreation program
31 including the programs established pursuant to the land and water
32 conservation fund act of 1965 (P.L. 88-578; 78 Stat. 897).

33 15. Prepare, maintain and update a comprehensive plan for the
34 development of the outdoor recreation resources of this state.

35 16. Initiate and carry out studies to determine the recreational needs
36 of this state and the counties, cities and towns.

37 17. Coordinate recreational plans and developments of federal, state,
38 county, city, town and private agencies.

39 18. Receive applications for projects to be funded through the land and
40 water conservation fund, the state lake improvement fund and the law
41 enforcement and boating safety fund on behalf of the Arizona outdoor
42 recreation coordinating commission.

43 19. Provide staff support to the Arizona outdoor recreation
44 coordinating commission.

1 20. Maintain a statewide off-highway vehicle recreational plan which
2 shall be updated at least once every six years and shall be used by all
3 participating agencies to guide distribution and expenditure of monies under
4 section 28-1176.

5 21. COLLABORATE WITH THE STATE FORESTER IN PRESENTATIONS TO LEGISLATIVE
6 COMMITTEES ON ISSUES ASSOCIATED WITH FOREST MANAGEMENT AND WILDFIRE
7 PREVENTION AND SUPPRESSION AS PROVIDED BY SECTION 37-622, SUBSECTION B.

8 B. Notwithstanding section 41-511.11, the board may annually collect
9 and expend monies to plan and administer the land and water conservation fund
10 program, in conjunction with other administrative tasks and recreation plans,
11 as a surcharge to subgrantees in a proportionate amount, not to exceed ten
12 per cent, of the cost of each project. The surcharge monies shall be set
13 aside to fund staff support for the land and water conservation fund program.

14 C. A partnership fund is established consisting of monies received
15 pursuant to subsection B of this section, monies received from
16 intergovernmental agreements pursuant to title 11, chapter 7, article 3 and
17 monies received pursuant to section 35-148. The board shall administer the
18 fund monies as a continuing appropriation for the purposes provided in these
19 sections.

20 D. The state historic preservation officer shall:

21 1. In cooperation with federal and state agencies, political
22 subdivisions of this state and other persons direct and conduct a
23 comprehensive statewide survey of historic properties and maintain
24 inventories of historic properties.

25 2. Identify and nominate eligible properties to the national register
26 of historic places and the Arizona register of historic places and otherwise
27 administer applications for listing historic properties on the national and
28 state registers.

29 3. Administer grants-in-aid for historic preservation projects within
30 this state.

31 4. Advise, assist and monitor, as appropriate, federal and state
32 agencies and political subdivisions of this state in carrying out their
33 historic preservation responsibilities and cooperate with federal and state
34 agencies, political subdivisions of this state and other persons to ensure
35 that historic properties are taken into consideration at all levels of
36 planning and development.

37 5. Develop and make available information concerning professional
38 methods and techniques for the preservation of historic properties.

39 6. Make recommendations on the certification, classification and
40 eligibility of historic properties for property tax and investment tax
41 incentives.

42 Sec. 5. Section 41-1713, Arizona Revised Statutes, is amended to read:
43 41-1713. Powers and duties of director; authentication of
44 records

45 A. The director of the department shall:

- 1 1. Be the administrative head of the department.
- 2 2. Subject to the merit system rules, appoint, suspend, demote,
3 promote or dismiss all other classified employees of the department upon the
4 recommendation of their respective division superintendent. The director
5 shall determine and furnish the law enforcement merit system council
6 established by section 41-1830.11 with a table of organization. The
7 superintendent of each division shall serve at the concurrent pleasure of the
8 director and the governor.
- 9 3. Make rules necessary for the operation of the department.
- 10 4. Annually submit a report of the work of the department to the
11 governor and the legislature, or more often if requested by the governor or
12 the legislature.
- 13 5. Appoint a deputy director with the approval of the governor.
- 14 6. Adopt an official seal which shall contain the words "department
15 of public safety" encircling the seal of this state as part of its design.
- 16 7. Investigate, on receipt, credible evidence that a licensee or
17 registrant has been arrested for, charged with or convicted of an offense
18 that would preclude the person from holding a license, provisional
19 certificate or registration certificate issued pursuant to title 32, chapter
20 26.
- 21 8. Cooperate with the Arizona-Mexico commission in the governor's
22 office and with researchers at universities in this state to collect data and
23 conduct projects in the United States and Mexico on issues that are within
24 the scope of the department's duties and that relate to quality of life,
25 trade and economic development in this state in a manner that will help the
26 Arizona-Mexico commission to assess and enhance the economic competitiveness
27 of this state and of the Arizona-Mexico region.
- 28 9. COLLABORATE WITH THE STATE FORESTER IN PRESENTATIONS TO LEGISLATIVE
29 COMMITTEES ON ISSUES ASSOCIATED WITH WILDFIRE PREVENTION, SUPPRESSION AND
30 EMERGENCY MANAGEMENT AS PROVIDED BY SECTION 37-622, SUBSECTION B.
- 31 B. The director may:
 - 32 1. Issue commissions to officers of the department.
 - 33 2. Request the cooperation of the utilities, communication media and
34 public and private agencies and any sheriff or other peace officer in any
35 county or municipality, within the limits of their respective jurisdictions
36 when necessary, to aid and assist in the performance of any duty imposed by
37 this chapter.
 - 38 3. Cooperate with any public or private agency or person to receive
39 or give necessary assistance and may contract for such assistance subject to
40 legislative appropriation controls.
 - 41 4. Utilize the advice of the board and cooperate with sheriffs, local
42 police and peace officers within the state for the prevention and discovery
43 of crimes, the apprehension of criminals and the promotion of public safety.
 - 44 5. Acquire in the name of the state, either in fee or lesser estate
45 or interest, any real or personal property which the director considers

1 necessary for the department's use, by purchase, donation, dedication,
2 exchange or other lawful means. All acquisitions of personal property
3 pursuant to this paragraph shall be made as prescribed in chapter 23 of this
4 title unless otherwise provided by law.

5 6. Dispose of any property, real or personal, or any right, title or
6 interest therein, when the director determines that such property is no
7 longer needed or necessary for the department's use. Disposition of personal
8 property shall be as prescribed in chapter 23 of this title. The real
9 property shall be sold by public auction or competitive bidding after notice
10 published in a daily newspaper of general circulation, not less than three
11 times, two weeks prior to the sale and subject to the approval of the
12 director of the department of administration. When real property is sold,
13 it shall not be sold for less than the appraised value as established by a
14 competent real estate appraiser. Any funds derived from the disposal of real
15 or personal property shall be deposited in the Arizona highway patrol fund
16 as authorized by section 41-1752, subsection B, paragraph 6.

17 7. Sell, lend or lease personal property directly to any state, county
18 or local law enforcement agency. Such personal property may be sold or
19 leased at a predetermined price without competitive bidding. Any state,
20 county or local law enforcement agency receiving such property may not resell
21 or lease such property to any person or organization except for educational
22 purposes.

23 8. Dispose of surplus property by transferring such property to the
24 department of administration for disposition to another state budget unit or
25 political subdivision if such state budget unit or political subdivision is
26 not a law enforcement agency.

27 9. Lease or rent personal property directly to any state law
28 enforcement officer for the purpose of traffic safety, traffic control or
29 other law enforcement related activity.

30 10. Sell for one dollar, without public bidding, the department issued
31 handgun or shotgun to a department officer on duty related retirement
32 pursuant to title 38, chapter 5, article 4. Any funds derived from the sale
33 of the handgun or shotgun to the retiring department officer shall be
34 deposited, PURSUANT TO SECTIONS 35-146 AND 35-147, in the Arizona highway
35 patrol fund as authorized by section 41-1752, subsection B, paragraph 6.

36 11. Conduct state criminal history records checks for the purpose of
37 updating and verifying the status of current licensees or registrants who
38 have a license or certificate issued pursuant to title 32, chapter 26. The
39 director shall investigate, upon receipt, credible evidence that a licensee
40 or registrant has been arrested for, charged with or convicted of an offense
41 that would preclude the person from holding a provisional license or
42 registration certificate issued pursuant to title 32, chapter 26.

43 12. Grant a maximum of two thousand eighty hours of industrial injury
44 leave to any sworn department employee who is injured in the course of the
45 employee's duty and whose work-related injury prevents the employee from

1 performing the normal duties of that employee's classification. This
2 industrial injury leave is in addition to any vacation or sick leave earned
3 or granted to the employee and does not affect the employee's eligibility for
4 any other benefits, including workers' compensation. On retirement or
5 separation from the department or on reclassification to civilian status, the
6 employee forfeits any unused industrial injury leave and is not eligible for
7 payment pursuant to section 38-615. Subject to approval by the law
8 enforcement merit system council, the director shall adopt rules and
9 procedures regarding industrial injury leave hours granted pursuant to this
10 paragraph.

11 C. The director and any employees of the department which the director
12 designates in writing may use the seal adopted pursuant to subsection A,
13 paragraph 6 of this section to fully authenticate any department records and
14 copies of these records. These authenticated records or authenticated copies
15 of records shall be judicially noticed and shall be received in evidence by
16 the courts of this state without any further proof of their authenticity.

APPROVED BY THE GOVERNOR MAY 20, 2003

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 21, 2003.

Passed the House March 4, 2003,

Passed the Senate May 13, 2003

by the following vote: 58 Ayes,

by the following vote: 27 Ayes,

0 Nays, 2 Not Voting

0 Nays, 3 Not Voting

Jake Flake
Speaker of the House

Klu Bennett
President of the Senate

Norman L. Moore
Chief Clerk of the House

Charmion Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

14 day of May, 2003

at 2:32 o'clock P. M.

Sandra Stimpert
Secretary to the Governor

Approved this 20 day of

May, 2003,

at 9:40 o'clock A. M.

J. N. Reynolds
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 21 day of May, 2003

at 3:56 o'clock P. M.

Janice K. Brewer
Secretary of State

H.B. 2479