Senate Engrossed House Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 262

HOUSE BILL 2788

AN ACT

AMENDING TITLE 37, CHAPTER 2.1, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; AMENDING SECTION 41-511.23, ARIZONA REVISED STATUTES; AMENDING LAWS 2005, CHAPTER 322, SECTION 2, AS AMENDED BY LAWS 2007, CHAPTER 222, SECTION 15; MAKING APPROPRIATIONS; RELATING TO ENVIRONMENT BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Title 37, chapter 2.1, Arizona Revised Statutes, is amended by adding article 2, to read:

ARTICLE 2. COMMUNITY PROTECTION INITIATIVE

37-641. Community protection initiative fund

A. THE COMMUNITY PROTECTION INITIATIVE FUND IS ESTABLISHED. THE STATE FORESTER SHALL ADMINISTER THE FUND. THE FUND CONSISTS OF LEGISLATIVE APPROPRIATIONS, GIFTS, GRANTS AND ANY OTHER PUBLIC OR PRIVATE REVENUE RECEIVED BY THE STATE FORESTER FOR THE PURPOSES OF THIS ARTICLE. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE STATE FORESTER FOR THE PURPOSES OF THIS ARTICLE.

B. ON NOTICE FROM THE STATE FORESTER, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND. MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190, RELATING TO LAPSING OF APPROPRIATIONS.

C. THE STATE FORESTER MAY APPLY FOR AND ACCEPT FEDERAL AND PRIVATE MONIES, GRANTS, GIFTS, CONTRIBUTIONS AND DEVISES FOR DEPOSIT IN THE FUND TO BE SPENT FOR THE PURPOSES OF THIS ARTICLE.

37-642. Community protection grants; eligibility

A. THE COMMUNITY PROTECTION INITIATIVE PROGRAM IS ESTABLISHED TO PROVIDE A SOURCE OF COST-SHARE FUNDING TO ASSIST LOCAL GOVERNMENTS AND PRIVATE LANDOWNERS IN REDUCING THE VOLUME OF HAZARDOUS FUELS ON NONFEDERAL FORESTED LAND IN THIS STATE.

B. THE STATE FORESTER SHALL MAINTAIN A LIST OF COMMUNITIES AT RISK OF WILDFIRE. SUBJECT TO THE AVAILABILITY OF MONIES IN THE COMMUNITY PROTECTION INITIATIVE FUND, THE FORESTER MAY ISSUE GRANTS FROM THE COMMUNITY PROTECTION INITIATIVE FUND TO AT-RISK COMMUNITIES TO COMPLETE COMMUNITY WILDFIRE PROTECTION PLANS.

C. THE STATE FORESTER SHALL PRIORITIZE GRANTS ACCORDING TO A COMMUNITY'S AVAILABLE RESOURCES. IN ADDITION, THE GRANTS ARE SUBJECT TO THE FOLLOWING REQUIREMENTS:

1. A GRANT SHALL BE ISSUED ONLY TO A COUNTY, CITY, TOWN, FIRE DISTRICT OR QUALIFIED NONPROFIT CORPORATION THAT HAS EXPERTISE IN HAZARDOUS FUELS REDUCTION.

2. THE STATE FORESTER SHALL REQUIRE THAT ANY GRANTEE MUST ENTER INTO A LEGALLY BINDING FINANCIAL PARTICIPATION AGREEMENT TO PROVIDE AT LEAST TWENTY-FIVE PER CENT OF THE TOTAL COST OF THE FUEL TREATMENT. ANY MONIES FROM NONFEDERAL AND NONSTATE SOURCES AND IN-KIND CONTRIBUTIONS MAY BE CONSIDERED TO QUALIFY FOR THE FINANCIAL PARTICIPATION REQUIREMENT OF THIS PARAGRAPH.

3. PROJECT MANAGERS MUST AGREE TO PROVIDE:

(a) TREATMENT INFORMATION FOR PURPOSES OF THE ARIZONA FIRE MAP PROJECT.

(b) FINANCIAL AND PROGRESS UPDATES TO THE STATE FORESTER EACH CALENDAR QUARTER.

4. ANY FUNDED PROJECT MUST MEET STANDARDS FOR HAZARDOUS FUEL REDUCTION ESTABLISHED BY THE STATE FORESTER.

5. THE GEOGRAPHIC AREA OF THE PROPOSED PROJECT MUST BE IDENTIFIED IN A COMMUNITY WILDFIRE PROTECTION PLAN.

6. THE PROJECT MUST BE COMPLETED WITHIN THIRTY-SIX MONTHS AFTER THE DATE OF THE GRANT. AT THE END OF THIRTY-SIX MONTHS, ANY UNEXPENDED AND UNENCUMBERED GRANT MONIES LAPSE AND REVERT TO THE COMMUNITY PROTECTION INITIATIVE FUND. THE STATE FORESTER SHALL EXTEND THE TERM OF THE PROJECT AND THE GRANT IN THE CASE OF FOREST CLOSURE OR PROHIBITIVE WEATHER CONDITIONS THAT ARE BEYOND THE CONTROL OF THE GRANTEE.

37-643. Management; categorical funding limits; annual report

A. THE STATE FORESTER IS RESPONSIBLE AND SHALL PROVIDE FOR THE MANAGEMENT OF THE COMMUNITY PROTECTION INITIATIVE PROGRAM UNDER THIS ARTICLE.

B. IN ANY FISCAL YEAR THE STATE FORESTER SHALL NOT SPEND FROM THE COMMUNITY PROTECTION INITIATIVE FUND MORE THAN:

1. FIFTY THOUSAND DOLLARS FOR PROGRAM ADMINISTRATION, INCLUDING:

(a) RANKING GRANT PRIORITIES.

(b) RECEIVING AND EVALUATING GRANT APPLICATIONS.

(c) AWARDING AND MONITORING GRANTS.

(d) REALLOCATING LAPSED GRANT MONIES.

2. ONE HUNDRED THOUSAND DOLLARS FOR AN ARIZONA FIRE MAP TO TRACK THE PROGRESS OF FOREST TREATMENT UNDER COMMUNITY WILDFIRE PROTECTION PLANS BY MANAGING TREATMENT INFORMATION AND LOADING DATA ASSOCIATED WITH THE PLANS INTO THE COMMUNITY PROTECTION INITIATIVE SYSTEM.

C. THE STATE FORESTER SHALL PREPARE AN ANNUAL REPORT ON THE COMMUNITY PROTECTION INITIATIVE PROGRAM, INCLUDING BUDGETED EXPENDITURES AND OUTSTANDING GRANTS FROM THE FUND AND PROGRESS IN COMPLETING PROJECTS FUNDED BY THE GRANTS. THE STATE FORESTER SHALL PROVIDE COPIES OF THE ANNUAL REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE JOINT LEGISLATIVE BUDGET COMMITTEE, THE SECRETARY OF STATE, THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS AND ANY PERSON REQUESTING A COPY.

37-644. Program termination

THE PROGRAM ESTABLISHED BY THIS ARTICLE ENDS ON JULY 1, 2017 PURSUANT TO SECTION 41-3102.

Sec. 2. Section 41-511.23, Arizona Revised Statutes, is amended to read:

41-511.23. Conservation acquisition board; land conservation fund; conservation donation and public conservation accounts; livestock and crop conservation fund

A. The conservation acquisition board is established, as an advisory body to the Arizona state parks board, consisting of the following members

who are appointed by the governor, at least one of whom shall be experienced in soliciting money from private sources:

1. One state land lessee.

2. One member who is qualified by experience in managing large holdings of private land for income production or conservation purposes.

3. One member of the state bar of Arizona who is experienced in the practice of private real estate law.

4. One real estate appraiser who is licensed or certified under title 32, chapter 36.

5. One member who is qualified by experience in marketing real estate.

6. One representative of a conservation organization.

7. One representative of a state public educational institution.

B. The governor shall designate a presiding member of the board. The term of office is five years except that initial members shall assign themselves by lot to terms of one, two, three, two members for four and two members for five years in office.

C. The conservation acquisition board shall:

1. Solicit donations to the conservation donation account.

2. Consult with entities such as private land trusts, state land lessees, the state land department, the Arizona state parks board and others to identify conservation areas that are reclassified pursuant to section 37-312 and that are suitable for funding.

3. Recommend to the Arizona state parks board appropriate grants from the land conservation fund.

D. The land conservation fund is established consisting of the following accounts:

1. The conservation donation account consisting of monies received as donations. Donations to the account are subject to any lawful conditions the donor may prescribe, including any conditions on the use of the money or reversion to the donor. Monies in the account are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

2. The public conservation account consisting of monies appropriated to the account from the state general fund and monies from any other designated source. In fiscal years 2000-2001 through 2010-2011, the sum of twenty million dollars is appropriated each fiscal year from the state general fund to the public conservation account in the land conservation fund for the purposes of this section. Monies in the account are appropriated for the purposes of this section, and the Arizona state parks board may spend monies in the account without further legislative authorization. Each expenditure of monies from the public conservation account for purposes listed under subsection G, paragraph 2 of this section shall be matched by an equal expenditure of monies from the conservation donation account or from other private or governmental sources.

E. If the legislature fails to appropriate monies to the public conservation account in a fiscal year, and if there are no other monies in

the public conservation account, the Arizona state parks board may either grant nothing from the fund in that year or, on recommendation by the conservation acquisition board, may grant available monies in the conservation donation account for purposes authorized in subsection G of this section.

F. The monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

G. Monies in the public conservation account, with matching monies from the conservation donation account, are appropriated as follows:

1. A total of two million dollars each fiscal year to the livestock and crop conservation fund. The fund is established for the purposes of this paragraph. Monies in the fund are continuously appropriated to the Arizona department of agriculture for the exclusive purpose of granting monies to individual landowners and grazing and agricultural lessees of state or federal land who contract with the Arizona department of agriculture to implement conservation based management alternatives using livestock or crop production practices, or reduce livestock or crop production, to provide wildlife habitat or other public benefits that preserve open space and for administrative expenses as provided by this paragraph. The department shall administer the fund. On notice from the director of the department, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations. For the purposes of granting monies from the fund pursuant to this paragraph, the department:

(a) Shall develop guidelines and criteria for implementation of this program that shall include requiring as part of the application a letter describing the intended use for the grant money.

(b) Shall give priority to lessees of state or federal land who reduce livestock production to provide public benefits such as wildlife species conservation or wildlife habitat.

(c) Shall not grant more than fifty per cent of the monies in the fund with respect to land in one county in any fiscal year.

(d) Is exempt from chapter 6 of this title with respect to adopting rules, except that the department shall provide for public notice and sixty days for public comment on the annual grant guidelines and criteria, including public hearings.

(e) Shall award all grants pursuant to chapter 24, article 1 of this title.

(f) Shall require each grantee to submit to the department, within twelve months after receiving the grant, a written report detailing how grant monies were used to achieve the project described in the letter submitted as part of the application. If the project is longer than one year, a written report shall be submitted to the department on an annual basis until the project is complete.

(g) May use not more than ~~five~~ TEN per cent of the monies appropriated to the fund in any fiscal year for the purposes of administering the program.

(h) Shall prepare a report of the disposition of monies appropriated to the fund each fiscal year and provide a copy of the report to the governor, to the Arizona state parks board and to any person who requests a copy.

2. The remainder of the monies to the Arizona state parks board for the exclusive purpose of granting monies to the state or any of its political subdivisions, or to a nonprofit organization that is exempt from federal income taxation under section 501(c) of the internal revenue code and that has the purpose of preserving open space, for the following purposes only:

(a) To purchase or lease state trust lands that are classified as suitable for conservation purposes pursuant to title 37, chapter 2, article 4.2. A grant of money under this subdivision to a nonprofit organization is conditioned on the organization providing reasonable public access to any land that is wholly or partly purchased with that money. The organization shall agree with the Arizona state parks board that it will impose a restrictive covenant, running with the title to the land, granting such access and providing for reversion to this state of any interest in the property acquired with money granted under this subdivision on the failure to comply with the terms of the covenant. The Arizona state parks board and the state land commissioner have standing to either enforce the covenant or recover the amount of the grant from the current owner, with interest from the date the grant was awarded to the nonprofit organization.

(b) To purchase the development rights of state trust lands throughout this state under the following conditions:

(i) The development rights shall be sold at public auction as provided in section 37-258.01.

(ii) The lessee of the state trust land at the time the development rights are purchased shall be notified of the purchase in writing.

(iii) The purchase of the development rights shall not result in cancellation or modification of the current lease.

(iv) The purchase of the development rights shall not affect the existing lessee's current economic use of the land and rights pursuant to title 37, chapter 2, article 4.2.

(v) As a condition of the sale of the development rights, the purchaser shall agree in perpetuity not to exercise the development rights and that the land shall remain as open space.

(vi) The state trust land shall retain any other rights and attributes as prescribed by law at the time of the purchase.

H. For the purposes of subsection G, paragraph 2 of this section:

1. The Arizona state parks board shall not grant more than fifty per cent of the monies with respect to land in one county in any fiscal year.

2. A grant of money is valid for eighteen months and may be extended one time for twelve additional months if a required public auction has not been held.

3. The Arizona state parks board may adopt rules to establish qualifications of nonprofit organizations for purposes of applying for and receiving money granted.

4. The owner of property that is wholly or partly acquired with money granted shall not restrict or unreasonably limit access to private lands. Any sale of land with money granted shall include a condition requiring that permanent access to private lands be allowed.

I. The Arizona state parks board shall administer the land conservation fund. On notice from the board, the state treasurer shall invest and divest monies in either account in the fund as provided by section 35-313, and monies earned from investments shall be credited to a separate administration account to pay the board's expenses of administering the land conservation and acquisition program under subsection G, paragraph 2 of this section, which shall not exceed five per cent of the amount deposited in the public conservation account in any fiscal year or five hundred thousand dollars, whichever is less. Any unobligated amount remaining in the administration account at the end of the fiscal year shall be credited to the public conservation account for purposes of subsection D of this section.

J. Members of the conservation acquisition board may be reimbursed for travel and lodging expenses and per diem subsistence allowances incurred while on public business for the board. Reimbursement amounts shall not exceed those allowed under title 38, chapter 4, article 2.

Sec. 3. Laws 2005, chapter 322, section 2, as amended by Laws 2007, chapter 222, section 15, is amended to read:

Sec. 2. Plan submission fees; appropriation

Notwithstanding the provisions of section 27-1233, subsection B, Arizona Revised Statutes, as added by this act, monies collected by the state mine inspector for submission of reclamation plans between January 1, 2006 and July 1, ~~2007~~ 2008 are appropriated to the state mine inspector for the purposes of plan review and evaluation.

Sec. 4. Off-highway vehicle recreation fund; use

Notwithstanding section 28-1176, Arizona Revised Statutes, the Arizona state parks board may spend up to $692,100 from the Arizona state parks board portion of the off-highway vehicle recreation fund in fiscal years 2007-2008 and 2008-2009 for parks board operating expenses.

Sec. 5. Arizona water protection fund; use

Notwithstanding section 45-2112, subsection B, Arizona Revised Statutes, the annual appropriation from the state general fund to the Arizona water protection fund for fiscal years 2007-2008 and 2008-2009 shall be as specified in the general appropriations act.

Sec. 6. Arizona state parks board; availability of monies

Notwithstanding section 41-511.11, Arizona Revised Statutes, or any other law, all state parks enhancement fund monies are available in fiscal years 2007-2008 and 2008-2009 for the operation of state parks as appropriated by the legislature in the general appropriations act or for capital needs as determined by the Arizona state parks board with the prior approval of the joint committee on capital review to acquire and develop real property and improvements as state parks consistent with the purposes and objectives prescribed in section 41-511.03, Arizona Revised Statutes.

Sec. 7. Underground storage tank assurance account; transfer of monies; uses

Notwithstanding any other law, the administrative cap established in section 49-1051, subsection B, paragraphs 2 and 3, Arizona Revised Statutes, is suspended for fiscal year 2007-2008 and fiscal year 2008-2009, and the department of environmental quality may transfer $6,531,000 from the assurance account of the underground storage tank revolving fund for administrative costs of the underground storage tank leak prevention program and for the used oil program.

Sec. 8. Navigable stream appropriation; exemption from lapsing

Notwithstanding any other law, the $50,000 appropriated to the Arizona navigable stream adjudication commission for appeals to commission decisions in fiscal year 2005-2006 by Laws 2005, chapter 286, section 64, as amended by Laws 2006, chapter 344, section 43, is exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations, through June 30, 2008.

Sec. 9. Water infrastructure finance authority; loans

The department of environmental quality and the water infrastructure finance authority shall assist municipalities that are remediating discharged untreated or improperly treated wastewater into the groundwater that may have an actual or potential impact on the water of the Colorado river and are converting from septic or other wastewater treatment systems to an approved sewer system that may include, but not require, replacement of existing twenty-year loans and obtaining thirty-year loans under the clean water program.

Sec. 10. Appropriation; community protection fund

The sum of $1,000,000 is appropriated from the state general fund in fiscal year 2007-2008 to the community protection initiative fund.

APPROVED BY THE GOVERNOR JUNE 25, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 25, 2007.

Passed the House May 23, 2007

by the following vote: 31 Ayes,

28 Nays, 1 Not Voting

Speaker of the House

Pro Tempore

Chief Clerk of the House

Passed the Senate June 18, 2007

by the following vote: 25 Ayes,

3 Nays, 2 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary to the Governor

Approved this _____day of

_____

at _____o'clock _____M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary of State

H.B. 2788

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

June 19, 2007,

by the following vote: 40 Ayes,

17 Nays, 3 Not Voting

Speaker of the House

Norman L. Moore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

19th day of June, 2007,

at 4:50 o'clock P. M.

Secretary to the Governor

Approved this 25 day of

June, 2007,

at 10:10 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 25 day of June, 2007,

at 11:25 o'clock A. M.

Janice K. Brewer
Secretary of State

H.B. 2788