

House Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

CHAPTER 153

HOUSE BILL 2771

AN ACT

AMENDING SECTION 45-292, ARIZONA REVISED STATUTES; RELATING TO WATERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-292, Arizona Revised Statutes, is amended to
3 read:

4 45-292. Approval required to transport water out of state;
5 application; criteria; hearing

6 A. A person may withdraw, or divert, and transport water from this
7 state for a reasonable and beneficial use in another state if approved by the
8 director pursuant to this article. A person shall not transport water from
9 this state unless approved by the director, but this article does not apply
10 to or prohibit transporting water from this state as required by interstate
11 compact, federal law or international treaty.

12 B. An application to transport water from this state for use in
13 another state shall be filed with the director, INCLUDING A FEE ESTABLISHED
14 BY THE DIRECTOR BY RULE. IN ESTABLISHING A FEE BY RULE, THE DIRECTOR MAY
15 CONSIDER FACTORS INCLUDING THE AMOUNT OF TIME LIKELY TO BE EXPENDED IN
16 PROCESSING THE APPLICATION, THE AMOUNT OF PRE-EXISTING HYDROLOGICAL
17 INFORMATION AVAILABLE, IF ANY, AND THE COMPLEXITY OF THE APPLICATION. ~~and~~ THE
18 APPLICATION shall include:

19 1. The name and address of the applicant's statutory agent in this
20 state for service of process and other legal notices.

21 2. The legal basis for acquiring the water to be transported.

22 3. The purpose for which the water will be used.

23 4. The annual amount of water in acre-feet for which the application
24 is made.

25 5. The proposed duration of the permit, not to exceed fifty years with
26 an option to renew.

27 6. Studies satisfactory to the director of the probable hydrologic
28 impact on the area from which the water is proposed to be transported.

29 7. Any other information which the director may require.

30 C. The director shall approve or reject the application. If the
31 director approves the application, the director may prescribe terms and
32 conditions for the approval. In determining whether to approve the
33 application the director shall consider:

34 1. Whether the proposed action would be consistent with conservation
35 of water, including any applicable management goals and plans.

36 2. Potential harm to the public welfare of the citizens of this state.

37 3. The supply of water to this state and current and future water
38 demands in this state in general and the proposed source area in particular.

39 4. The feasibility of intrastate transportation of the water that is
40 the subject of the application to alleviate water shortages in this state.

41 5. The availability of alternative sources of water in the other
42 state.

43 6. The demands placed on the applicant's supply in the other state.

44 7. Whether the proposed action is prohibited or affected by other law,
45 including sections 45-165 and 45-172 and chapter 2 of this title.

1 D. This article does not authorize and the director shall not approve
2 transporting from this state water allocated to this state by federal law or
3 interstate compact.

4 E. An administrative hearing shall be held on the application, and the
5 director shall give notice of the hearing by publication once a week for
6 three consecutive weeks in a newspaper of general circulation in the county
7 or counties from which the applicant proposes to transport the water. The
8 hearing shall be conducted in the area from which water is proposed to be
9 transported. Any interested person, including the department, may appear and
10 give oral or written testimony on all issues involved.

11 F. Section 45-114, subsections A and B govern administrative
12 proceedings, rehearing or review and judicial review of final decisions of
13 the director under this section.

APPROVED BY THE GOVERNOR MAY 1, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2008.