House Engrossed Senate Bill

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KEN BENNETT
SECRETARY OF STATE

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CHAPTER 282

SENATE BILL 1359

AN ACT

AMENDING SECTIONS 45-113, 45-115 AND 45-116, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-117; AMENDING SECTIONS 45-183, 45-273, 45-292, 45-411.01, 45-467, 45-476.01, 45-595, 45-612, 45-703, 45-871.01, 45-874.01, 45-1021, 45-1041, 45-1205, 45-1212.01, 45-1220, 45-1603 AND 45-1605, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF WATER RESOURCES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 45-113, Arizona Revised Statutes, is amended to read:

45-113. Fees; refunds

A. Except as otherwise prescribed, the director shall establish by rule and shall collect reasonable fees to cover the costs of administrative services and expenses.

B. Except as otherwise prescribed, the director may establish by rule and collect fees for applications, certificates, licenses and permits relating to surface water, groundwater, water exchanges, wells, grandfathered rights, substitution of acres, adequate and assured water supply, groundwater oversupply and lakes and for inspections relating to dam safety.

C. If the director determines that a fee, including a fee collected pursuant to section 45-611, has been erroneously paid during the same fiscal year or during any prior fiscal year, the director shall make an administrative adjustment or a refund, without interest, from the agency fund in which the fee was originally deposited to the current holder of the right, application or registration for which the fee was paid.

D. This section does not apply to fees paid or payable under section 45-254 or section 45-255, subsection B.

E. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, THE MONIES COLLECTED UNDER THIS SECTION IN THE WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

F. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, THE FEES COLLECTED UNDER THIS SECTION RELATING TO ADEQUATE AND ASSURED WATER SUPPLY PURSUANT TO SECTIONS 45-108, 45-576 AND 45-579 IN THE ASSURED AND ADEQUATE WATER SUPPLY ADMINISTRATION FUND ESTABLISHED BY SECTION 45-580.

Sec. 2. Section 45-115, Arizona Revised Statutes, is amended to read:

45-115. Production and copying fund; use; account; nonreversion

A. The department of water resources production and copying fund is established consisting of monies paid to the department for publications produced by the department and for copies of department records. The department shall administer the fund. Monies in the fund are continuously appropriated and shall be used for expenses incurred by the department in producing and distributing publications of the department and for copying department records for the public.

B. The fund shall be a separate account on the books of the department. Monies remaining in the fund at the end of the fiscal year remain in the fund, except that any monies in excess of twenty thousand dollars at the end of the fiscal year revert to the ~~state general fund~~ WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

Sec. 3. Section 45-116, Arizona Revised Statutes, is amended to read:

45-116. Publication and mailing fund; use; account; nonreversion

A. The department of water resources publication and mailing fund is established consisting of monies paid to the department for the publication and mailing of legal notices required by law. The department shall administer the fund. Monies in the fund are continuously appropriated and shall be used for expenses incurred by the department in publishing and mailing legal notices required by law.

B. The fund shall be a separate account on the books of the department. Monies remaining in the fund at the end of the fiscal year remain in the fund, except that any monies in excess of twenty thousand dollars at the end of the fiscal year revert to the ~~state general fund~~ WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

Sec. 4. Title 45, chapter 1, article 1, Arizona Revised Statutes, is amended by adding section 45-117, to read:

45-117. Water resources fund; purpose; monies held in trust

A. THE WATER RESOURCES FUND IS ESTABLISHED TO BE MAINTAINED IN PERPETUITY CONSISTING OF:

1. EXCEPT AS PROVIDED IN SECTION 45-113, SUBSECTION F, MONIES RECEIVED PURSUANT TO SECTIONS 45-113, 45-115, 45-116, 45-183, 45-273, 45-292, 45-411.01, 45-467, 45-476.01, 45-595, 45-612, 45-703, 45-871.01, 45-874.01, 45-1021, 45-1041, 45-1205, 45-1603 AND 45-1605.

2. MONIES APPROPRIATED BY THE LEGISLATURE TO THE WATER RESOURCES FUND.

3. GIFTS, GRANTS AND DONATIONS TO THE FUND FROM ANY PUBLIC OR PRIVATE SOURCE.

4. INTEREST AND OTHER INCOME RECEIVED FROM INVESTING MONIES IN THE FUND.

B. MONIES IN THE FUND ARE SUBJECT TO LEGISLATIVE APPROPRIATION. MONIES REMAINING IN THE FUND AT THE END OF THE FISCAL YEAR REMAIN IN THE FUND AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

C. MONIES IN THE FUND SHALL BE USED EXCLUSIVELY BY THE DEPARTMENT OF WATER RESOURCES TO CARRY OUT THE PURPOSES OF THIS TITLE AND SHALL NOT BE APPROPRIATED FOR ANY OTHER PURPOSE.

D. THE DIRECTOR SHALL ADMINISTER THE FUND. ON NOTICE FROM THE DIRECTOR, THE STATE TREASURER SHALL INVEST AND DIVEST THE MONIES IN THE FUND AS PROVIDED BY SECTION 35-313 AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

E. ANY FEE, ASSESSMENT OR OTHER LEVY THAT IS AUTHORIZED BY LAW OR ADMINISTRATIVE RULE AND THAT IS COLLECTED AND DEPOSITED IN THE WATER RESOURCES FUND SHALL BE HELD IN TRUST. THE MONIES IN THE FUND MAY BE USED ONLY FOR THE PURPOSES PRESCRIBED BY STATUTE AND SHALL NOT BE APPROPRIATED OR TRANSFERRED BY THE LEGISLATURE TO FUND THE GENERAL OPERATIONS OF THIS STATE OR TO OTHERWISE MEET THE OBLIGATIONS OF THE GENERAL FUND OF THIS STATE. THIS

SUBSECTION DOES NOT APPLY TO ANY TAXES OR OTHER LEVIES THAT ARE IMPOSED PURSUANT TO TITLE 42 OR 43.

Sec. 5. Section 45-183, Arizona Revised Statutes, is amended to read:

45-183. Contents of statement of claim; filing procedure; fee

A. The statement of claim for each water right shall include the following:

1. The name and mailing address of the person filing the claim.

2. The name of the watercourse or water source from which the right to divert or make use of water is claimed.

3. The quantities of water and times of year use is claimed.

4. The legal description to the nearest forty-acre tract or by other appropriate description of the point or points of diversion and place of use of the waters.

5. The purpose and extent of use.

6. The approximate dates of first putting water to beneficial use for the various amounts and times claimed in paragraph 3 of this subsection.

7. The legal basis for the claim.

8. The sworn statement that the claim set forth is true and correct.

B. A statement of claim for a water right may be verified by the person claiming the right or may be verified by an authorized agent of such person.

C. Filing of a statement of claim shall be complete upon timely receipt by the ~~appropriate state agency~~ DEPARTMENT of a properly executed statement of claim and a five dollar filing fee for each such claim. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, THE FEES RECEIVED PURSUANT TO THIS SUBSECTION IN THE WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

Sec. 6. Section 45-273, Arizona Revised Statutes, is amended to read:

45-273. Claim of water right; penalty; fee

A. A claim of water right for a stockpond and application for certification of such right shall be typewritten or legibly written in ink and filed in duplicate with the director upon a printed form furnished by the director. Each blank in the form shall be completed with the required information pursuant to instructions furnished by the director.

B. A claim which does not contain the required information or which is not accompanied by the required filing fee shall not be accepted, but shall be returned to the sender.

C. A separate claim shall be filed for each stockpond.

D. All claims shall be certified as true under penalty of perjury.

E. Each claim shall be accompanied by a filing fee of ten dollars.

F. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL FEES RECEIVED PURSUANT TO THIS SECTION IN THE WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

Sec. 7. Section 45-292, Arizona Revised Statutes, is amended to read:

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

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

B. An application to transport water from this state for use in another state shall be filed with the director, including a fee established by the director by rule. In establishing a fee by rule, the director may consider factors including the amount of time likely to be expended in processing the application, the amount of preexisting hydrological information available, if any, and the complexity of the application. The application shall include:

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

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

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

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

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

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

7. Any other information which the director may require.

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

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

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

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

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

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

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

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

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

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

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

G. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL FEES RECEIVED UNDER THIS SECTION IN THE WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

Sec. 8. Section 45-411.01, Arizona Revised Statutes, is amended to read:

45-411.01. <u>Exemptions from irrigation water duties, conservation requirements for distribution of groundwater and portions of groundwater withdrawal fee for portions of Phoenix active management area; fee; review</u>

A. Each person who is entitled to use groundwater pursuant to an irrigation grandfathered right under article 5 of this chapter on irrigation acres located within the area delineated for exemption under subsection E of this section is exempt, beginning January 1, 1989, from any irrigation water duties or intermediate water duties established or required to be established for those irrigation acres in the management plans for the first, second, third and fourth management periods for the Phoenix active management area adopted pursuant to article 9 of this chapter.

B. The Arlington canal company, the Buckeye water conservation and drainage district and the St. John's irrigation district, or their successors, are exempt, beginning January 1, 1989, from any applicable conservation requirements for the distribution of groundwater established in the management plans for the first, second, third and fourth management periods for the Phoenix active management area adopted pursuant to article 9 of this chapter.

C. No groundwater withdrawal fee shall be levied or collected pursuant to section 45-611 and no water quality assurance fee shall be levied or collected pursuant to section 45-616 for:

1. Groundwater withdrawn during calendar years 1989 through 2019 for irrigation use on irrigation acres within the area exempted from irrigation water duties and intermediate water duties under subsection A of this section.

2. Groundwater withdrawn and used in the area delineated for exemption under subsection E of this section during calendar years 1999 through 2019 for a non-irrigation use pursuant to section 45-519, subsection B, if the user of the groundwater pays a fee of five hundred dollars to the director by March 31 of each year following a year in which the groundwater was used. The director shall deposit, pursuant to sections 35-146 and 35-147, the monies collected under this paragraph in the water quality assurance revolving fund established by section 49-282.

D. Except as provided in subsection G of this section, a water duty exemption fee of twenty-five cents per irrigation acre per year shall be paid to the department for each irrigation acre in the exempted area. The water duty exemption fee shall be paid to the department no later than March 31 of each year from 1990 through 2020 for the preceding year by each person who owns irrigation acres within the exempted area as of December 31 of the year preceding the date the payment is due except that, if the Arlington canal company, the Buckeye water conservation and drainage district or the St. John's irrigation district, or a successor, delivers water to the irrigation acres during the year preceding the date payment is due, the fee shall be paid by the company or district delivering water to the irrigation acres. If a person who is required to pay a fee pursuant to this subsection fails to pay the fee for the calendar year in question on or before March 31 of the following year, the director may assess and collect a penalty of ten per cent of the unpaid fee, without compounding, for each month or portion of a month that the fee is delinquent. The total penalty assessed under this subsection shall not exceed sixty per cent of the unpaid fee. The director shall deposit, pursuant to sections 35-146 and 35-147, all monies collected by the department under this subsection in the ~~state general fund~~ WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

E. The boundaries of the exempted area under this section are delineated on a map of the Phoenix active management area filed in the office of the secretary of state on May 12, 1988. A true copy of the map filed in the office of the secretary of state shall be on file in the department and shall be available for examination by the public during regular business hours.

F. The director shall review the hydrologic conditions within the area delineated on the map filed in the office of the secretary of state pursuant to subsection E of this section. The director shall consult with representatives of the Arlington canal company, the Buckeye water conservation and drainage district and the St. John's irrigation district, or their successors, on the scope of the review before beginning the review and on the status of the review periodically during the course of the review. The director shall submit a recommendation to the governor, the president of the senate and the speaker of the house of representatives no later than December 15, 2015 regarding extending the exemptions established in this section.

G. A person who owns an irrigation grandfathered right appurtenant to ten or fewer irrigation acres located in the exempt area is exempt from the payment of a water duty exemption fee for the acres prescribed by subsection D of this section unless the irrigation acres are part of an integrated farming operation. The exemption provided by this subsection does not apply to the Arlington canal company, the Buckeye water conservation and drainage district or the St. John's irrigation district, or any successor, in any year in which the company or district delivers water to the irrigation acres.

Sec. 9. Section 45-467, Arizona Revised Statutes, is amended to read:

45-467. Withdrawals in excess of irrigation grandfathered right; withdrawals less than irrigation grandfathered right; flexibility account; conveyances; variance; exemption

A. A person who is entitled to use groundwater pursuant to an irrigation grandfathered right may:

1. In an active management area other than the Santa Cruz active management area, use groundwater in excess of the amount allowed by the right in an amount determined pursuant to subsection I of this section.

2. In the Santa Cruz active management area, use water, other than stored water, withdrawn from a well in excess of the farm's current irrigation water duty multiplied by the farm's water duty acres in an amount determined pursuant to subsection J of this section.

3. Use less than the amount allowed by the right in one accounting period and use the remaining amount allowed by the right in a succeeding accounting period or periods.

B. The director shall establish rules for the maintenance of a flexibility account for each farm in an active management area.

C. If a farm located in an active management area other than the Santa Cruz active management area is irrigated solely with groundwater, the director shall:

1. Register a debit to the account in any accounting period in which the amount of groundwater used for the irrigation of the irrigation acres in the farm is greater than the current irrigation water duty for the farm multiplied by the water duty acres in the farm.

2. Register a credit to the account in any accounting period in which the amount of groundwater used for the irrigation of the irrigation acres in the farm is less than the current irrigation water duty for the farm multiplied by the water duty acres in the farm.

D. Except as provided in subsection G of this section, if a farm located in an active management area other than the Santa Cruz active management area is irrigated with a combination of surface water or effluent, or both, and groundwater, and uses of water by the farm from all sources for irrigation purposes, except for surface water, other than Colorado river water, released for beneficial use from storage, diversion or distribution facilities to avoid spilling that would otherwise occur due to uncontrolled

1 surface water inflows that exceed facility capacity, in the accounting
2 period:
3 1. Exceed the amount of the current irrigation water duty for the farm
4 multiplied by the water duty acres in the farm, the amount of groundwater
5 used up to the amount of the excess, less any effluent used, shall be
6 registered as a debit to the account.
7 2. Are less than the amount of the current irrigation water duty for
8 the farm multiplied by the water duty acres in the farm, the amount of water
9 not used which would have been groundwater shall be registered as a credit to
10 the account.
11 E. If a farm located in the Santa Cruz active management area is
12 irrigated solely with water, other than stored water, withdrawn from a well,
13 the director shall:
14 1. Register a debit to the account in any accounting period in which
15 the amount of water, other than stored water, withdrawn from a well and used
16 for the irrigation of the irrigation acres in the farm is greater than the
17 current irrigation water duty for the farm multiplied by the water duty acres
18 in the farm. The amount of the debit shall equal the amount of the excess.
19 2. Register a credit to the account in any accounting period in which
20 the amount of water, other than stored water, withdrawn from a well and used
21 for the irrigation of the irrigation acres in the farm is less than the
22 current irrigation water duty for the farm multiplied by the water duty acres
23 in the farm.
24 F. If a farm located in the Santa Cruz active management area is
25 irrigated with a combination of surface water not withdrawn from a well and
26 effluent, or both, and water, other than stored water, withdrawn from a well,
27 and uses of water by the farm from all sources for irrigation purposes in the
28 accounting period:
29 1. Exceed the amount of the current irrigation water duty for the farm
30 multiplied by the water duty acres in the farm, the amount of water, other
31 than stored water, withdrawn from a well and used on the farm up to the
32 amount of the excess, less any effluent used that does not qualify as stored
33 water, shall be registered as a debit to the account.
34 2. Are less than the amount of the current irrigation water duty for
35 the farm multiplied by the water duty acres in the farm, the amount of water
36 not used which would have been water, other than stored water, withdrawn from
37 a well shall be registered as a credit to the account.
38 G. Beginning January 1, 1995 through December 31, 1999, if a farm that
39 qualifies under this subsection as determined pursuant to subsection H of
40 this section is irrigated during an accounting period with a combination of
41 surface water or effluent, or both, and groundwater, and uses of water by the
42 farm from all sources for irrigation purposes, except for surface water,
43 other than Colorado river water, released for beneficial use from storage,
44 diversion or distribution facilities to avoid spilling that would otherwise

occur due to uncontrolled surface water inflows that exceed facility capacity, in the accounting period:

1. Exceed the amount of the first intermediate irrigation water duty established for the farm pursuant to section 45-565 multiplied by the water duty acres in the farm, the amount of groundwater used up to the amount of the excess, less any effluent used, shall be registered as a debit to the account.

2. Are less than the amount of the current irrigation water duty for the farm multiplied by the water duty acres in the farm, the amount of water not used that would have been groundwater shall be registered as a credit to the account.

3. Exceed or equal the amount of the current irrigation water duty for the farm multiplied by the water duty acres in the farm but are less than or equal to the amount of the first intermediate irrigation water duty established for the farm pursuant to section 45-565 multiplied by the water duty acres in the farm, no credit or debit may be registered to the account.

H. A farm qualifies under subsection G of this section if it is located in an active management area other than the Santa Cruz active management area and either of the following applies:

1. The amount of groundwater used to irrigate the farm during the accounting period does not exceed an amount computed by multiplying the water duty acres in the farm by one and one-half acre-feet of water, except that an electrical district organized under title 48, chapter 12 or an irrigation district may apply to the director no later than March 31 of a year for an increase in that amount for that year for the farms located within the boundaries of the district that do not qualify under paragraph 2 of this subsection. The director shall grant the increase if the district demonstrates that it holds a contract for the purchase of hydroelectric power marketed by the western area power administration or the Arizona power authority and that the use of groundwater during that year by all of the farms within the boundaries of the district that do not qualify under paragraph 2 of this subsection in an amount that does not exceed one and one-half acre-feet of water multiplied by the total number of water duty acres of those farms would result in the district being unable to use its hydroelectric power capacity entitlement under the contract. If the director grants the increase, the director shall compute the maximum amount of groundwater that may be used by a farm within the district during the year in order to qualify under subsection G of this section as follows:

(a) Determine the total amount of groundwater that must be used during the year by all farms in the district that do not qualify under paragraph 2 of this subsection to enable the district to efficiently use its hydroelectric kilowatt demand allocation.

(b) Divide the amount determined in subdivision (a) of this paragraph by the total number of water duty acres of the farms in the district that do not qualify under paragraph 2 of this subsection.

(c) Multiply the farm's water duty acres by the quotient in subdivision (b) of this paragraph or two acre-feet of water, whichever is less.

2. The farm is irrigated with water supplied by an irrigation district that owns or leases and operates all of the wells used to withdraw groundwater for irrigation use within the district, and the total amount of groundwater supplied by the irrigation district for irrigation use during the year does not exceed an amount computed by multiplying the total number of water duty acres within the irrigation district by one and one-half acre-feet of water, except that the irrigation district or an electrical district organized under title 48, chapter 12 may apply to the director no later than March 31 of a year for an increase in that amount for that year for the farms located within the boundaries of the irrigation district. The director shall grant the increase if the irrigation district or electrical district demonstrates that it holds a contract for the purchase of hydroelectric power marketed by the western area power administration or the Arizona power authority and that the irrigation district or electrical district would be unable to use its hydroelectric power capacity entitlement under the contract if the total amount of groundwater supplied by the irrigation district for irrigation use during the year does not exceed an amount computed by multiplying the total number of water duty acres within the irrigation district by one and one-half acre-feet of water. If the director grants the increase, the maximum amount of groundwater that may be supplied by the irrigation district for irrigation use during the year in order for the farms located within the boundaries of the irrigation district to qualify under subsection G of this section shall be the lesser of the following:

(a) The amount of groundwater that the director determines must be supplied by the irrigation district for irrigation use during the year to enable the irrigation district or electrical district to efficiently use its hydroelectric kilowatt demand allocation.

(b) An amount of groundwater computed by multiplying the total number of water duty acres within the irrigation district by two acre-feet of water.

I. The maximum excess amount of groundwater that may be used pursuant to this section is equal to fifty per cent of the current irrigation water duty for the farm multiplied by the water duty acres in the farm. An owner of an irrigation grandfathered right and the person using groundwater pursuant to the right violate this section if the flexibility account for the farm in which the irrigation acres to which the right is appurtenant are located is in arrears at any time in excess of this amount. Groundwater equal to the credit balance in the flexibility account may be used at any time.

J. In the Santa Cruz active management area, the maximum excess amount of water, other than stored water, withdrawn from a well that may be used pursuant to this section is equal to fifty per cent of the current irrigation water duty for the farm multiplied by the water duty acres in the farm. A

person using water, other than stored water, withdrawn from a well for an irrigation use in the Santa Cruz active management area violates this section if the flexibility account for the farm is in arrears at any time in excess of this amount. Water, other than stored water, withdrawn from a well in an amount equal to the credit balance in the flexibility account may be used at any time, except that if the water is surface water, the amount that may be used shall not exceed the amount allowed by the decreed or appropriative surface water right.

K. If an irrigation grandfathered right is conveyed for an irrigation use pursuant to section 45-472, each acre conveyed shall carry with it a proportional share of any debits or credits in the flexibility account for the farm. If an irrigation grandfathered right is conveyed for a non-irrigation use pursuant to section 45-472, each acre conveyed shall carry with it a proportional share of any debits in the flexibility account for the farm.

L. A person in an active management area other than the Santa Cruz active management area who is using groundwater pursuant to an irrigation grandfathered right and who is operating under a variance to the irrigation water duty pursuant to section 45-574:

1. May accumulate a maximum debit in an amount equal to fifty per cent of the current irrigation water duty for the farm multiplied by the water duty acres in the farm.

2. Shall accumulate credits pursuant to subsection C or D of this section.

M. A person in the Santa Cruz active management area who is using water, other than stored water, withdrawn from a well for an irrigation use and who is operating under a variance to the irrigation water duty pursuant to section 45-574:

1. May accumulate a maximum debit in an amount equal to fifty per cent of the current irrigation water duty for the farm multiplied by the water duty acres in the farm.

2. Shall accumulate credits pursuant to subsection E or F of this section.

N. In an active management area other than the Santa Cruz active management area, a person using groundwater pursuant to an irrigation grandfathered right shall file a report with the director each year which shall include the amount of groundwater used pursuant to the irrigation grandfathered right and such other information as the director shall require. In the Santa Cruz active management area, a person using water, other than stored water, withdrawn from a well for irrigation use shall file a report with the director each year which shall include the amount of water used on the farm and such other information as the director shall require. The director may consolidate the reporting requirements of this section with the reporting requirements of section 45-632. A person using groundwater pursuant to an irrigation grandfathered right that is regulated under a best

management practices program adopted by the director, pursuant to section 45-566.02, subsection F, section 45-567.02, subsection ~~F~~ G or section 45-568.02, subsection F, is exempt from the reporting requirements of this subsection for groundwater used pursuant to the irrigation grandfathered right, except that the person shall file a report with the director each year that includes the information required by the best management practices program. A person using groundwater pursuant to an irrigation grandfathered right that is appurtenant to ten or fewer irrigation acres is exempt from the reporting requirements of this subsection for groundwater used pursuant to the irrigation grandfathered right unless one of the following applies:

1. The land to which the irrigation grandfathered right is appurtenant is part of an integrated farming operation.

2. Groundwater is withdrawn from the land to which the irrigation grandfathered right is appurtenant and delivered for use pursuant to either a service area right pursuant to article 6 of this chapter or a grandfathered groundwater right other than an irrigation grandfathered right that is appurtenant to irrigation acres that are exempt from irrigation water duties pursuant to section 45-563.02.

3. Groundwater is withdrawn from land that is both owned by the owner of the irrigation grandfathered right and contiguous to the land to which the irrigation grandfathered right is appurtenant and delivered for use pursuant to either a service area right pursuant to article 6 of this chapter or a grandfathered groundwater right other than an irrigation grandfathered right that is appurtenant to irrigation acres that are exempt from irrigation water duties pursuant to section 45-563.02.

O. A person who owns an irrigation grandfathered right that is appurtenant to irrigation acres that were capable of being irrigated as of December 31 of the preceding calendar year and whose farm has registered a credit balance to its flexibility account may convey or sell all or a portion of the credit balance to any person, including the conveyor or seller of the credit balance, who owns another irrigation grandfathered right or who uses groundwater pursuant to another irrigation grandfathered right, except that:

1. A credit balance that is registered to the flexibility account of a farm located within an irrigation district may be transferred only to:

(a) The flexibility account of a farm that is located within the same irrigation district.

(b) The flexibility account of a farm that is located outside of that irrigation district if both farms are located in the same groundwater subbasin and the same active management area and if the farm to which the credits are conveyed is owned or leased by the owner or lessee of the farm from which the credits are conveyed.

2. A credit balance that is registered to the flexibility account of a farm that is not located within an irrigation district may be transferred only to:

(a) The flexibility account of a farm that is located within the same groundwater subbasin and the same active management area and that is not located within an irrigation district.

(b) The flexibility account of a farm that is located within the same groundwater subbasin and the same active management area and that is located within an irrigation district if the farm to which the credits are conveyed is owned or leased by the owner or lessee of the farm from which the credits are conveyed.

3. A credit registered to a flexibility account for a year may be conveyed or sold only during the second calendar year following the year for which the credit was registered.

4. A person who owns a farm that includes protected farmland may not sell or otherwise convey any credit registered to the farm's flexibility account.

P. A person who sells or conveys all or a portion of a credit balance pursuant to subsection O of this section, and the person to whom the credit balance is sold or conveyed, shall notify the director of the sale or conveyance within thirty days after the sale or conveyance on a form prescribed and furnished by the director.

Q. The director shall establish and collect a reasonable fee from the conveyee or purchaser of a credit balance pursuant to subsection O of this section to cover the cost of administrative services and other expenses associated with registering a deduction to the conveyor's or seller's flexibility account balance and an addition to the conveyee's or purchaser's flexibility account balance pursuant to subsection R of this section. The conveyee or purchaser shall pay the fee at the time the notice required pursuant to subsection P of this section is given to the director. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL FEES RECEIVED UNDER THIS SUBSECTION IN THE WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

R. A sale or conveyance of all or part of a credit balance under subsection O of this section is effective only if the director receives the notice required by subsection P of this section and the fee required by subsection Q of this section within thirty days after the sale or conveyance. After receiving the notice and the fee, the director shall register a deduction of the credit amount conveyed or sold from the conveyor's or seller's flexibility account balance and the corresponding addition to the conveyee's or purchaser's flexibility account balance. The deduction and addition to the flexibility account balances are effective as of the date of the sale or conveyance.

S. The director shall report to the president of the senate and the speaker of the house of representatives no later than June 30, 2002 on the effect of conveyances of flexibility account credit balances pursuant to subsection O, paragraph 2 of this section on the achievement of the management goal of each active management area as stated in section 45-562

and on the conservation program included in the management plan for each active management area as provided in section 45-565, and any recommended changes to subsection O, paragraph 2 of this section.

T. Except for subsection N of this section, this section does not apply to:

1. A farm if the person entitled to use groundwater on the farm is exempt from the irrigation water duties established for the farm as provided in section 45-563.02, subsection A or if the director may not establish irrigation water duties for the farm as provided in section 45-563.02, subsection B.

2. A farm if water use within the farm is regulated under a best management practices program adopted by the director pursuant to section 45-566.02, subsection F, section 45-567.02, subsection ~~F~~ G or section 45-568.02, subsection F.

Sec. 10. Section 45-476.01, Arizona Revised Statutes, is amended to read:

45-476.01. Late applications for certificates of grandfathered rights; definition

A. A person who claims the right to withdraw or receive and use groundwater in an initial active management area pursuant to a grandfathered right and who failed to file an application on or before July 1, 1983 as required by law may file a late application for a certificate of grandfathered right pursuant to this section on a form provided by the department.

B. A late application for a certificate of grandfathered right shall include the information required in section 45-476. The fee for filing a late application is one hundred dollars. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL FEES RECEIVED UNDER THIS SUBSECTION IN THE WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

C. The director shall review each late application for a certificate of grandfathered right submitted pursuant to this section and may conduct such investigations as the director deems necessary to determine whether the information contained in the application is correct and sufficient to issue a certificate.

D. A person who files a late application for a certificate of grandfathered right pursuant to this section has the burden of establishing by clear and convincing evidence that the necessary statutory requirements for issuing the certificate of grandfathered right have been met.

E. The director's decision on a late application for a certificate of grandfathered right submitted pursuant to this section, is subject to administrative review. A person aggrieved by the director's decision is not entitled to an administrative hearing. A final decision of the director approving or denying the application is not subject to judicial review.

F. If the director, after reviewing a late application, determines that the statutory requirements for issuing the certificate of grandfathered

right have been met, the director shall issue a certificate of grandfathered right to the applicant pursuant to section 45-481. A holder of a certificate of grandfathered right issued pursuant to this section has the same rights and duties as all other holders of certificates of grandfathered rights.

G. Notwithstanding section 41-1092.02, subsection D, this section is not subject to title 41, chapter 6, article 10.

H. For THE purposes of this article, "late application for a certificate of grandfathered right" means an application that is filed after July 1, 1983 for a certificate of grandfathered right to withdraw or receive and use groundwater in an initial active management area.

Sec. 11. Section 45-595, Arizona Revised Statutes, is amended to read:

45-595. Well construction requirements; licensing of well drillers

A. New well construction, including modifications of wells, shall be performed under the direct and personal supervision of a well driller who holds a well driller's license pursuant to subsection B OF THIS SECTION.

B. A person who intends to construct or modify one or more wells in this state shall file an application for a well driller's license with the director. The application shall include:

1. The name, mailing address and place of business of the applicant.

2. The applicant's experience and qualifications.

3. Such other information as the director may require.

C. The director ~~shall~~, by rule ~~or regulation~~, SHALL establish qualifications and a reasonable fee of not more than fifty dollars for licenses for well drillers and establish procedures for the evaluation and licensing of applicants. A nontransferable well driller's license shall be issued if the director finds that the applicant meets the qualifications established pursuant to this subsection. The director may revoke a well driller's license for good cause.

D. A person who drills or modifies an exempt well on land owned by that person shall first obtain a single well license from the department. The department shall issue the license to drill the well according to standard small well construction standards. No fee may be charged for a single well license.

E. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL FEES RECEIVED UNDER THIS SECTION IN THE WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

Sec. 12. Section 45-612, Arizona Revised Statutes, is amended to read:

45-612. Administration and enforcement withdrawal fee; exemption from lapsing; disposition of excess monies

A. Each year the legislature shall appropriate sufficient monies to the department to cover all costs of administration and enforcement of this chapter.

B. Not later than October 1 of each year, the director shall estimate the total amount of groundwater to be withdrawn in all active management

areas except the Tucson, Phoenix, Pinal and Santa Cruz active management areas during the following calendar year and the total amount of water, other than stored water, to be withdrawn in the Santa Cruz active management area during the following calendar year, and set the administration and enforcement fee pursuant to section 45-611, subsection A, paragraph 1 to produce an amount equal to one-half of the amount budgeted by the director for administration and enforcement purposes for the following fiscal year. In setting the administration and enforcement fee, the director shall account for excess payments or deficiencies in payments in the past fiscal year. Except as provided in section 45-113, subsection C, monies collected from administration and enforcement fees shall be deposited in the ~~state general fund~~ WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

C. For the Tucson, Phoenix and Pinal active management areas, not later than October 1, 2016 and by October 1 of each year thereafter, the director shall estimate the total amount of groundwater to be withdrawn in each active management area and shall set the administration and enforcement fee pursuant to section 45-611, subsection C, paragraph 1 to produce an amount equal to one-half of the amount budgeted by the director for administration and enforcement purposes for the following fiscal year. In setting the administration and enforcement fee, the director shall account for excess payments or deficiencies in payments in the past fiscal year. Except as provided in section 45-113, subsection C, monies collected from administration and enforcement fees shall be deposited in the ~~state general fund~~ WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

D. Monies budgeted for administration and enforcement purposes pursuant to this section are exempt ~~from lapsing under~~ FROM THE PROVISIONS OF section 35-190 RELATING TO LAPSING OF APPROPRIATIONS. If the administration and enforcement fee is set at fifty cents and excess payments have been received, such excess payments shall be credited to the augmentation and conservation assistance fund established under section 45-615 and credited among the active management areas in proportion to the amount of such monies collected from each active management area.

Sec. 13. Section 45-703, Arizona Revised Statutes, is amended to read:

45-703. <u>Application for certificate of groundwater oversupply; fee</u>

A. The director shall prescribe and furnish an application form for a certificate of groundwater oversupply that includes the following:

1. The name and mailing address of the district member.

2. The name of the active management area in which the groundwater will be withdrawn.

3. The estimated annual quantity of groundwater to be designated as groundwater oversupply.

4. The locations and well registration numbers of the wells from which the designated groundwater will be withdrawn.

5. The proposed duration of the certificate.

6. Evidence of the district member's right under articles 4 through 7 of this chapter to withdraw the groundwater to be designated as groundwater oversupply.

7. Evidence that the groundwater to be designated will be withdrawn from an area in the district of localized excess groundwater.

8. Evidence that if the district member does not withdraw the groundwater to be designated either of the following could occur in the active management area in which the district is located:

(a) The groundwater would be discharged from the district without being used and would not contribute hydrologically to achieving safe-yield.

(b) The groundwater would contribute to a waterlogging or drainage problem.

9. Any other information the director may reasonably require.

B. The director shall establish and collect a reasonable fee from the applicant to cover the cost of administrative services and other expenses associated with evaluating and issuing a certificate of groundwater oversupply. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL FEES RECEIVED UNDER THIS SUBSECTION IN THE WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

Sec. 14. Section 45-871.01, Arizona Revised Statutes, is amended to read:

45-871.01. <u>Permit application; fee; notice of application; objections; hearing; appeal</u>

A. The director shall prescribe and furnish application forms for the permits prescribed by articles 2 and 3 of this chapter. The application forms shall require the applicant to submit the information needed by the director to determine whether the permit may be issued. The director shall establish and collect a reasonable fee from the applicant to cover the cost of administrative services and other expenses associated with evaluating and issuing each permit. ~~All fees collected pursuant to this subsection shall be remitted pursuant to section 45-615, paragraph 1.~~ THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL FEES RECEIVED UNDER THIS SUBSECTION IN THE WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

B. On receipt of an application for a permit pursuant to this chapter, the director shall endorse on the application the date of its receipt and shall keep a record of the application. Within fifteen days after receipt of an application for an underground storage facility permit, the director shall post notice of the application on the department's website until the director issues a decision on the application. The notice shall state the name of the applicant, the location of the proposed underground storage facility, the date the application was filed and the application number. The notice required by this subsection is in addition to the notice requirement in subsection d of this section. The director shall conduct a review of the application within one hundred days of receipt of the application. If the director determines in the review that the application is incomplete or

incorrect, the director shall notify the applicant and the review period is extended by fifteen days. The application is incomplete or incorrect until the applicant files the information requested in the application. The director may conduct independent investigations as necessary to determine whether the application should be approved or rejected.

C. If the application is for water storage at an underground storage facility that is exempt from the requirement for an aquifer protection permit under section 49-250, subsection B, paragraph 12, 13 or 24, the director of water resources shall consult with the director of environmental quality and shall develop a coordinated and unified permit review process, that conforms to the time schedule prescribed by this section, to determine whether the permit application is correct and whether the development of a plan of action for monitoring and data analysis shall be required.

D. Except as provided in subsection E of this section, if the application is determined to be complete and correct and the application is for a storage facility permit or a water storage permit, the director, within fifteen days of that determination or a longer period if requested by the applicant, shall give notice of the application once each week for two consecutive weeks in a newspaper of general circulation in the county or counties in which persons reside who could reasonably be expected to be affected by the water storage. The director shall also give notice by first class mail to each city, town, private water company, conservation district, irrigation district and electrical district that serves land within the area of impact of the stored water. The notice shall state that persons who may be adversely affected by the water storage may file written objections to the issuance of the permit with the director for fifteen days after the last publication of notice. An objection shall state the name and mailing address of the objector, shall be signed by the objector or the objector's agent or attorney and shall clearly set forth the reasons why the permit should not be issued. The grounds for objection are limited to whether the application meets the criteria for issuing the permit being requested as prescribed by articles 2 and 3 of this chapter.

E. If the application is determined to be complete and correct and the application is for a water storage permit to store Colorado river water at a storage facility where storage of Colorado river water has previously been permitted, the director may issue the permit within twenty days of that determination if all of the following apply:

1. The holder of the storage facility permit with which the water storage permit will be affiliated has consented to the water storage.

2. The water storage permit will not require a modification of an affiliated water storage facility permit.

3. Colorado river water will be the only type of water stored under the water storage permit.

4. The applicant has the right to use the Colorado river water.

F. Except as provided in section 45-834.01, subsection D, if the application is determined to be complete and correct and the application is for a recovery well permit, the director, within fifteen days of the determination or a longer period if requested by the applicant, shall give notice of the application once each week for two consecutive weeks in a newspaper of general circulation in the county in which the applicant proposes to recover stored water. If the application is for a well located inside of or within three miles of the exterior boundaries of the service area of a city, town, private water company or irrigation district, the applicant shall give notice of the application by first class mail to each city, town, private water company or irrigation district within that distance. The applicant shall file proof of the notice with the director. The notice shall state that persons who may be adversely affected by the recovery well may file written objections to the issuance of the permit with the director for fifteen days after the last publication of notice. An objection shall state the name and mailing address of the objector, shall be signed by the objector or the objector's agent or attorney and shall clearly set forth reasons why the permit should not be issued. The grounds for objection are limited to whether the application meets the criteria for issuing a recovery well permit as set forth in section 45-834.01, subsection B. For the purposes of this subsection, if the proposed recovery well is located within three miles outside of the exterior boundaries of the service area of a city, town, private water company or irrigation district, a city, town, private water company or irrigation district within that distance shall be considered a person who may be adversely affected by the recovery well.

G. In appropriate cases, including cases in which a proper objection to the permit application has been filed, an administrative hearing may be held before the director's decision on the application if the director deems a hearing necessary. At least thirty days before the hearing, the director shall notify the applicant and any person who filed a proper objection to the issuance of the permit. The hearing shall be scheduled for at least sixty days but not more than ninety days after the expiration of the time in which to file objections.

H. If a hearing is not held, the director shall issue a decision and order within six months of the date notice of the application is first given pursuant to subsection D or F of this section, or within ninety days in the case of an application under article 6 of this chapter. The director shall record and endorse the approval or rejection of the application on the application. If the permit is denied, the director shall return a copy of the application to the applicant specifically stating the reasons for denial.

I. The applicant or any person who filed a proper objection to the application may seek judicial review of the final decision of the director as provided in section 45-114, subsection B in superior court as provided in section 45-405.

J. Section 45-114, subsections A and B govern administrative proceedings, rehearings or review and judicial review of final decisions of the director under this section. If an administrative hearing is held, it shall be conducted in the active management area in which the storage or recovery is located.

K. On receipt of an application for a permit pursuant to this section, the director shall provide written notice of the proposed permit to the city, town or county that has land use jurisdiction over the site that is the subject of the permit. The notice shall be given at the same time and in the same manner as the notices prescribed by subsections D and F of this section in order to provide the city, town or county with the opportunity to comment on the proposed facility's or well's compliance with site planning and operational requirements of the city, town or county. This subsection shall not be construed to limit the exclusive authority of the director to determine the issuance of the permit or the site of the facility or well or to reduce the authority of the city, town or county to enforce its applicable ordinances governing site planning and operational requirements.

Sec. 15. Section 45-874.01, Arizona Revised Statutes, is amended to read:

45-874.01. <u>Long-term storage credit recovery fee; amount; notice; payment; penalty</u>

A. The director shall levy and collect a long-term storage credit recovery fee from each person who recovers long-term storage credits pursuant to a recovery well permit issued under section 45-834.01. The amount of the long-term storage credit recovery fee is equal to the amount of the groundwater withdrawal fee levied for administration and enforcement of chapter 2 of this title pursuant to section 45-611, subsection A, paragraph 1.

B. Not later than October 1 of each year the director shall file in the department an order setting the long-term storage credit recovery fee for the following calendar year.

C. Within thirty days after the director sets the long-term storage credit recovery fee for the following calendar year, the director shall give written notice of the fee to all holders of recovery well permits issued under this chapter.

D. A person shall pay the long-term storage credit recovery fee to the department at the time the person holding a recovery well permit files an annual report pursuant to section 45-875.01. If a person who is required to pay a long-term storage credit recovery fee fails to pay the fee when due, the director may assess and collect a penalty of ten per cent of the unpaid fee, without compounding, for each month or portion of a month that the fee is delinquent. The total penalty assessed under this subsection shall not exceed sixty per cent of the unpaid fee.

E. The director shall deposit, pursuant to sections 35-146 and 35-147, all monies collected pursuant to SUBSECTION A OF this section in the ~~state~~

~~general fund~~ WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117 AND ALL MONIES COLLECTED PURSUANT TO SUBSECTION D OF THIS SECTION IN THE STATE GENERAL FUND.

Sec. 16. Section 45-1021, Arizona Revised Statutes, is amended to read:

45-1021. Enrollment of water exchange contracts; fee

A. A water exchange contract may be enrolled by any party to the contract by filing a statement of water exchange contract with the director and complying with all of the following requirements:

1. The water exchange contract was in effect before January 1, 1992 and, if originally oral, is reduced to writing before December 31, 1994.

2. A water exchange actually was made after January 1, 1982 pursuant to the contract unless the water to be exchanged by one of the parties is central Arizona project water for which a subcontract was not offered by the secretary of the interior by January 1, 1992.

3. Each statement of water exchange contract is filed on a separate prescribed form not later than December 31, 1994.

4. Each statement of water exchange contract includes a description of the legal basis for acquiring and using the water subject to the water exchange.

5. If the water exchange involves water pumped from wells, each statement of water exchange contract includes the well registration numbers of the wells pumping water pursuant to the exchange.

6. A copy of the water exchange contract is attached to the statement of water exchange contract.

7. Each blank in the prescribed form is completed legibly with the required information pursuant to instructions furnished by the director.

8. The statement of water exchange contract is certified as true under penalty of perjury.

9. The prescribed form is accompanied by a filing fee in an amount to be determined by rule by the director to cover the cost of administering this article.

B. The director shall not accept a statement of water exchange contract that does not meet all of the requirements of subsection A OF THIS SECTION. If the director determines that a statement of water exchange contract fails to meet these requirements, the director shall return it to the sender within ninety days specifying the deficiencies in the statement and providing the sender with sixty days within which to revise or supplement the statement in order to meet the requirements. The director may reject a revised or supplemented statement if, on resubmittal, it is still deficient. In such case, the director shall provide the sender an additional sixty days in which to further revise or supplement the statement. The director shall not accept a revised or supplemented statement of water exchange contract after June 30, 1995.

C. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL FEES RECEIVED UNDER THIS SECTION IN THE WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

Sec. 17. Section 45-1041, Arizona Revised Statutes, is amended to read:

45-1041. Water exchange permits; fee

A. A person who seeks to give surface water, other than Colorado river water, in a water exchange to which neither section 45-1002, subsection A, paragraph 1 nor 3 applies shall apply to the director for a water exchange permit. The director shall issue either a specific use water exchange permit or a general use water exchange permit, as applicable, if the applicant demonstrates that all of the following apply:

1. The water exchange will be made pursuant to a written contract.

2. The water exchange will not affect vested rights to water.

3. Each party to the water exchange contract has a right to the water the party will give in the water exchange.

4. If an applicant is not a city, town, private water company or irrigation district, any new or increased pumping by the applicant from a well within an active management area pursuant to the water exchange will not unreasonably increase damage to surrounding land or other water users.

5. If an applicant is a city, town, private water company or irrigation district with a service area located partly or wholly in an active management area, any new or increased pumping by the applicant within the applicant's service area pursuant to the water exchange is consistent with the management plan and achievement of the management goal for the active management area.

6. Each party to a water exchange contract either:

(a) Receives at least ninety per cent of the quantity of water that the other party gives in the water exchange.

(b) Receives at least fifty per cent of the quantity of water that the other party gives in the water exchange, unless otherwise authorized by law, and the director determines the water exchange is beneficial to water management in this state.

B. Subsection A of this section does not apply to the proposed modification of a previously enrolled or permitted water exchange contract that involves surface water other than Colorado river water, if the proposed modification meets both of the following conditions:

1. The proposed modification involves the addition of one or more of the following water sources as the only new or additional water source of exchange:

(a) Colorado river water.

(b) Groundwater.

(c) Effluent.

(d) Surface water that is captured in the additional storage capacity created by modified Roosevelt dam after April 9, 1986.

2. Notice of the proposed modification is filed by the person seeking the modification pursuant to section 45-1051 and is subject to the requirements of that section and the conditions prescribed by section 45-1052.

C. Any person may apply for a specific use water exchange permit. A specific use permit allows the parties to exchange specific sources of water in specific quantities for the uses and in the locations specified in the permit.

D. Two or more political subdivisions of this state, or one or more political subdivisions and one or more private water companies, Indian communities, agencies of this state or agencies of the United States may apply for a general use water exchange permit. A general use permit shall specify that the holders may engage in one or more exchanges of water at any time during the term of the permit. The water received pursuant to a general use permit may be used for any lawful purpose specified in the permit. Before making any exchange pursuant to a general use permit, the parties to the permit shall notify the director of the amounts of water to be exchanged and the specific uses to which each source of water will be applied.

E. An application for a water exchange permit shall be accompanied by a filing fee in an amount to be determined by rule by the director to cover the cost of administering this article.

F. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL FEES RECEIVED UNDER THIS SECTION IN THE WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

Sec. 18. Section 45-1205, Arizona Revised Statutes, is amended to read:

45-1205. <u>Charges against irrigation projects; disposition of proceeds</u>

A. Upon all projects for which approval is required by the state certification board, or which involve examination, supervision and inspection by the director, whether in connection with the construction of a dam or otherwise, the following shall be paid:

1. For irrigation projects of any kind involving twenty-five thousand acres or less, an annual tax levy of ten cents per acre shall be levied and collected.

2. For such irrigation projects in excess of twenty-five thousand acres, an annual tax levy of five cents per acre shall be levied and collected.

B. The levy shall be made only in the years required for construction of the project, and shall be made and collected in the same manner as provided for the levy and collection of taxes made for other expenses of the particular district. Such collections shall be deposited, pursuant to sections 35-146 and 35-147, in the ~~state general fund~~ WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

Sec. 19. Section 45-1212.01, Arizona Revised Statutes, is amended to read:

45-1212.01. Dam repair fund

A. The dam repair fund is established consisting of monies appropriated by the legislature, and monies collected by the director in full or partial satisfaction of a lien created by section 45-1212, subsection D and monies collected pursuant to section 45-1220.

B. Monies in the fund shall be used to ~~employ remedial measures necessary to protect life and property in accordance with section 45-1212~~ CARRY OUT THE PURPOSES OF THIS CHAPTER.

C. The director shall annually report to the legislature on the status of the fund and the purposes for which monies were expended during the preceding calendar year. The report shall be submitted pursuant to section 41-1178 no later than fifteen days after the commencement of each regular session.

D. The director shall administer the fund. On notice from the director, 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 dam repair fund are exempt from THE PROVISIONS OF section 35-190 relating to lapsing of appropriations.

Sec. 20. Section 45-1220, Arizona Revised Statutes, is amended to read:

45-1220. Deposit of monies; dam repair fund

A. Monies appropriated by the legislature for nonemergency dam repair, dam safety inspection fees collected pursuant to section 45-113, filing fees collected pursuant to section 45-1204 and payments of principal and interest collected by the director pursuant to section 45-1218 shall be deposited in the dam repair fund established by section 45-1212.01.

B. Monies in the dam repair fund deposited pursuant to subsection A of this section shall be used for loans and grants as provided in sections 45-1218 and 45-1219 TO CARRY OUT THE PURPOSES OF THIS CHAPTER. ~~Upon approval of the joint legislative budget committee, such monies may be transferred to pay necessary costs of remedial measures as provided in section 45-1212.~~

Sec. 21. Section 45-1603, Arizona Revised Statutes, is amended to read:

45-1603. Application fee; statement accompanying application

A. At the time of applying for the license, the applicant shall pay to the director a fee of one hundred dollars, and shall file an application in the form prescribed by the director and furnish a statement showing:

1. The name and address of the applicant.

2. The names of the operating personnel, and if unincorporated all individuals connected with the organization, or if a corporation the names of each of the officers and directors thereof, together with the address of each.

3. The scientific qualifications of all operating or supervising personnel.

4. A statement of all other contracts completed or in process of completion at the time the application is made, giving the names and addresses of the persons to whom the services were furnished and the areas in which such operations have been or are being conducted.

5. Methods of operation the licensee will use and the description of the aircraft, ground and meteorological services to be utilized.

6. Names of the contracting parties within the state, including:

(a) The area to be served.

(b) The months in which operations will be conducted.

(c) The dates when evaluations will be submitted.

B. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL FEES RECEIVED UNDER THIS SECTION IN THE WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

Sec. 22. Section 45-1605, Arizona Revised Statutes, is amended to read:

45-1605. <u>Equipment license; fee; application; reports required; revocation of license</u>

A. Any individual or corporation engaging in manufacturing, selling or offering for sale, leasing or offering to lease, licensing or offering to license equipment and supplies designed for weather control or cloud modification shall, before engaging in such manufacture, sale or offering for sale, procure a license from the director. The license shall be issued upon payment of a license fee of ten dollars and the filing of an application which shall show:

1. The name and address of the applicant.

2. The full description of the type and design of the equipment and supplies manufactured and sold by the applicant.

3. The operating technique of the equipment or supplies.

B. Within sixty days after issuance of an equipment license and semiannually thereafter, the licensee shall file with the director a copy of all advertising material used in selling or offering for sale, leasing or offering for lease, licensing or offering for license the equipment and supplies manufactured or sold by it.

C. The holder of a license shall within ten days after each sale of equipment or supplies report to the director, in writing, the exact character and quantity of equipment or supplies sold, the date of the sale and the persons to whom the sale was made.

D. Failure to file a copy of advertising material or reports required in this section constitutes grounds for immediate revocation of the equipment license.

E. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL FEES RECEIVED UNDER THIS SECTION IN THE WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

Sec. 23. Legislative intent

If the legislature authorizes the department of water resources to collect or impose a fee, assessment or other levy to be used for a specific purpose and not to fund the state general fund, the monies so collected must be used only for the purposes authorized by law. This act is intended to restore the trust of the people of this state and the businesses that operate in this state and that have paid and will be required to pay these fees, assessments and other levies that those monies will be used for the stated purpose and not for some other purpose.

APPROVED BY THE GOVERNOR MAY 7, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2010.

Passed the House April 29, 20 10,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate March 22, 20 10,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

Robert L. Burns

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1359

SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 29, 2010

by the following vote: 25 Ayes,

1 Nays, 4 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

3 day of May, 2010

at 8:50 o'clock A. M.

Secretary to the Governor

Approved this 7 day of

May, 2010

at 10:25 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 7th day of May, 2010

at 4:30 o'clock P. M.

Secretary of State

S.B. 1359