

Senate Engrossed

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
Senate  
Fifty-first Legislature  
First Regular Session  
2013

CHAPTER 247

# **SENATE BILL 1288**

AN ACT

AMENDING SECTIONS 45-2103 AND 45-2113, ARIZONA REVISED STATUTES; RELATING TO  
THE ARIZONA WATER PROTECTION FUND.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-2103, Arizona Revised Statutes, is amended to  
3 read:

4 45-2103. Arizona water protection fund commission

5 A. The Arizona water protection fund commission is established and  
6 consists of two ex officio members, TWO ADVISORY MEMBERS and fifteen NINE  
7 appointed members who are residents of this state, who have demonstrated an  
8 interest in natural resources and who are appointed as follows:

9 1. One person representing WHO REPRESENTS a multi-county water  
10 conservation district established pursuant to title 48, chapter 22 and named  
11 by that district's governing board.

12 ~~2. Three persons representing municipalities that have entered into~~  
13 ~~subcontracts for central Arizona project water. One person shall be from a~~  
14 ~~county with a population of less than five hundred thousand persons according~~  
15 ~~to the most recent United States decennial census and appointed by the~~  
16 ~~speaker of the house of representatives, one person shall be from a county~~  
17 ~~with a population of five hundred thousand or more persons but less than one~~  
18 ~~million two hundred thousand persons according to the most recent United~~  
19 ~~States decennial census and appointed by the president of the senate and one~~  
20 ~~person shall be from a county with a population of one million two hundred~~  
21 ~~thousand or more persons according to the most recent United States decennial~~  
22 ~~census ONE PERSON WHO REPRESENTS A STATE ASSOCIATION OF NATURAL RESOURCE~~  
23 ~~CONSERVATION DISTRICTS and WHO IS appointed by the governor.~~

24 ~~3. One person representing agriculture and appointed by the speaker of~~  
25 ~~the house of representatives.~~

26 ~~4. 3. One person representing FOUR PERSONS WHO REPRESENT natural~~  
27 ~~resource conservation districts established pursuant to title 37, chapter 6,~~  
28 ~~and appointed by the governor AND WHO REPRESENT GEOGRAPHICALLY DIVERSE AREAS~~  
29 ~~OF THIS STATE, TWO OF WHOM SHALL BE APPOINTED BY THE PRESIDENT OF THE SENATE~~  
30 ~~AND TWO OF WHOM ARE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.~~

31 ~~5. 4. Four members ONE MEMBER of the public with WHO HAS at least a~~  
32 ~~bachelor's degree in biology, botany, ecology, geology, geography, hydrology,~~  
33 ~~resource economics or zoology and who have significant work related~~  
34 ~~experience in the area of water resources management and conservation or~~  
35 ~~natural resources management and conservation. One person shall be appointed~~  
36 ~~by the speaker of the house of representatives, two persons shall be~~  
37 ~~appointed by the president of the senate WHO REPRESENTS A CITY THAT IS SERVED~~  
38 ~~BY THE CENTRAL ARIZONA PROJECT and one person shall be WHO IS appointed by~~  
39 ~~the governor. At least one of the members shall be from a county with a~~  
40 ~~population of less than five hundred thousand persons according to the most~~  
41 ~~recent United States decennial census.~~

42 ~~6. 5. Two persons ONE PERSON who are IS knowledgeable IN NATURAL~~  
43 ~~RESOURCE CONSERVATION ISSUES OR in water resource issues related to riparian~~  
44 ~~ecosystems, who have been recommended by at least one environmental~~  
45 ~~organization that is incorporated under the laws of this state or that for~~

1 federal tax purposes files under section 501(c)(3) of the internal revenue  
2 code and whose purpose includes the protection, conservation or restoration  
3 of this state's rivers and streams and associated riparian habitats,  
4 including fish and wildlife resources that are dependent on these habitats,  
5 REPRESENTS AN AGRICULTURAL IMPROVEMENT DISTRICT ESTABLISHED PURSUANT TO TITLE  
6 48, CHAPTER 17 and who are IS appointed by the governor.

7 ~~7. One person representing an agricultural improvement district~~  
8 ~~established pursuant to title 48, chapter 17, who has at least a bachelor's~~  
9 ~~degree in biology, botany, ecology, geology, geography, hydrology, resource~~  
10 ~~economics or zoology, who has significant work related experience in the area~~  
11 ~~of natural resources conservation and who is appointed by the governor.~~

12 ~~8. 6. One person representing WHO REPRESENTS an Indian tribe AND WHO~~  
13 ~~IS appointed by the chairman of the intertribal council of Arizona.~~

14 ~~9. One person representing an industrial water user who has entered~~  
15 ~~into a subcontract for central Arizona project water appointed by the~~  
16 ~~governor.~~

17 ~~10. 7. As nonvoting ex officio members, the director of the department~~  
18 ~~of water resources and the state land commissioner.~~

19 8. AS NONVOTING ADVISORY MEMBERS, ONE MEMBER OF THE HOUSE OF  
20 REPRESENTATIVES WHO IS APPOINTED BY THE SPEAKER OF THE HOUSE OF  
21 REPRESENTATIVES AND ONE MEMBER OF THE SENATE WHO IS APPOINTED BY THE  
22 PRESIDENT OF THE SENATE. ADVISORY MEMBERS MAY NOT BE CONSIDERED FOR PURPOSES  
23 OF ESTABLISHING A QUORUM.

24 B. Members of the commission appointed pursuant to subsection A,  
25 paragraphs 1 through 9- 6 of this section shall be appointed for staggered  
26 terms of three years. A member may serve more than one term and may continue  
27 to serve beyond the expiration of the term until a successor is appointed and  
28 assumes office.

29 C. On request, members who are not ex officio members of the  
30 commission are eligible to receive compensation pursuant to section 38-611,  
31 not to exceed three thousand dollars in any calendar year, and are eligible  
32 for reimbursement for expenses pursuant to title 38, chapter 4, article 2.

33 D. Members of the commission are immune from liability for any action  
34 necessary to carry out the purposes of this chapter.

35 Sec. 2. Section 45-2113, Arizona Revised Statutes, is amended to read:

36 45-2113. Fund grants; applications

37 A. The commission shall grant monies from the fund consistent with the  
38 application guidelines developed pursuant to section 45-2105. The commission  
39 shall establish a procedure by which monies may be granted annually which  
40 shall include a maximum of six months between the receipt of the proposal by  
41 the commission and the disbursement of monies. The commission shall give  
42 priority in funding to the following:

43 1. Projects for which matching monies or assets of comparable value  
44 including in-kind contributions will be provided by other sources.

1           2. Projects that provide for the continued maintenance of the portion  
2 of the river and stream and associated riparian habitat that are enhanced by  
3 the project.

4           3. Projects that include broad based local involvement.

5           4. Projects that directly benefit perennial or intermittent rivers or  
6 streams.

7           B. The commission shall require as a condition of approval of any  
8 proposal all of the following provisions:

9           1. Allowing access for inspection and evaluation of the project.

10          2. Controlling the expenditure of and accounting for any monies  
11 granted by the commission.

12          3. Requiring that those persons responsible for the project submit all  
13 pertinent information and research gained from the project to the commission.

14          4. Requiring that any person receiving a grant spend no more than five  
15 per cent of the grant on costs of administration.

16          C. The commission shall provide for public involvement regarding the  
17 applications submitted to the commission which shall include notice to any  
18 person who requests notice of applications and which shall provide a  
19 reasonable opportunity for comment on the application which shall not be less  
20 than forty-five days.

21          D. On receipt of an application the commission shall notify cities,  
22 towns, counties, natural resource conservation districts, special districts  
23 and Indian communities affected by the proposal and shall provide a  
24 reasonable opportunity for comment on the application which shall not be less  
25 than forty-five days.

26          E. Any person, state ~~or federal~~ agency or political subdivision of  
27 this state may submit a request for funding from the fund for purposes  
28 prescribed by this section. A FEDERAL AGENCY IS NOT ELIGIBLE FOR FUNDING  
29 FROM THE FUND. Requests for funding shall be made to the commission.  
30 Requests for funding submitted to the commission may be accompanied by  
31 expressions of support from affected cities, towns, counties, natural  
32 resource conservation districts, special districts or Indian communities.

33          F. As a condition of approval by the commission, the applicant shall  
34 commit to work jointly with the affected cities, towns, counties, natural  
35 resource conservation districts, special districts and Indian communities  
36 that have contacted the commission pursuant to subsection D of this section  
37 on all aspects of the proposal's implementation and monitoring, unless the  
38 jurisdiction chooses not to participate.

39          G. Monies in the fund may only be spent to finance programs located in  
40 this state.

41          H. Monies in the fund may be spent for any of the following:

42          1. Granting monies to entities for the acquisition of central Arizona  
43 project water or effluent that will protect or restore rivers or streams  
44 consistent with state water law. No entity may exercise the right of eminent  
45 domain to acquire water or water rights using monies derived from this fund.

1           2. Granting monies to assist in developing, promoting and implementing  
2 water conservation programs, directly related to the purposes of this  
3 chapter, outside of the active management areas, except that no more than  
4 five per cent of the monies spent in any fiscal year may be spent for this  
5 purpose.

6           3. Granting monies in support of research and data collection,  
7 compilation and analysis directly related to the purposes of this chapter  
8 except that no more than five per cent of the monies deposited in the fund in  
9 any fiscal year may be spent for this purpose. ~~Prior to~~ BEFORE the approval  
10 of any such project, the commission shall consult with the department of  
11 water resources and the state land department to determine whether any  
12 research of a similar nature has been or is in the process of being performed  
13 and is already available. The commission shall not approve a proposal if  
14 either department determines that sufficient data exists and notifies the  
15 commission in writing.

16           4. Granting monies for the development and implementation of capital  
17 projects or specific measures consistent with the purposes of this chapter.

18           I. Monies in the fund may not be spent for remedial action purposes  
19 undertaken pursuant to the comprehensive environmental response,  
20 compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat.  
21 2767; 42 United States Code section 9601) or title 49, chapter 2, article 5.

22           Sec. 3. Commission membership; concurrent terms

23           A. Notwithstanding section 45-2103, Arizona Revised Statutes, as  
24 amended by this act, the appointed members of the Arizona water protection  
25 fund commission who are currently serving shall continue to serve until their  
26 terms expire.

27           B. The members of the Arizona water protection fund commission who are  
28 appointed on or after the effective date of section 45-2103, Arizona Revised  
29 Statutes, as amended by this act, shall serve terms concurrently with  
30 existing members of the commission until the existing members' terms are  
31 completed.

APPROVED BY THE GOVERNOR JUNE 20, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 21, 2013.

Passed the House June 13, 2013,

Passed the Senate February 25, 2013,

by the following vote: 35 Ayes,

by the following vote: 17 Ayes,

24 Nays, 1 Not Voting

11 Nays, 2 Not Voting

  
Speaker of the House

  
President of the Senate

  
Cheryl Laube  
Chief Clerk of the House

  
Charmine Bellington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

17 day of June, 2013,

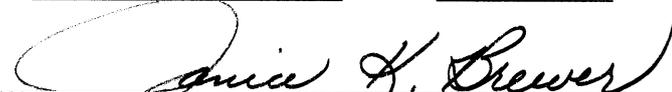
at 8:25 o'clock A M.

  
Mikhaela Howard  
Secretary to the Governor

Approved this 20th day of

June, 2013

at 3:19 o'clock P M.

  
Janice H. Brewer  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 21st day of June, 2013,

at 9:17 o'clock A M.

  
Ken Blumett  
Secretary of State

S.B. 1288