

House Engrossed Senate Bill

FILED

**MICHELE REAGAN
SECRETARY OF STATE**

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

CHAPTER 186

SENATE BILL 1285

AN ACT

AMENDING TITLE 17, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY
ADDING SECTION 17-265; AMENDING SECTION 35-142, ARIZONA REVISED STATUTES;
RELATING TO THE GAME AND FISH IN-LIEU FEE PROGRAM RESTORATION ENDOWMENT
TRUST FUND.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 17, chapter 2, article 4, Arizona Revised
3 Statutes, is amended by adding section 17-265, to read:

4 17-265. Game and fish in-lieu fee program restoration
5 endowment trust fund; exemption; definition

6 A. THE GAME AND FISH IN-LIEU FEE PROGRAM RESTORATION ENDOWMENT
7 TRUST FUND IS ESTABLISHED TO BE USED TO FULFILL THE DEPARTMENT'S
8 OBLIGATIONS AS AN IN-LIEU FEE SPONSOR PURSUANT TO SECTIONS 401 AND 404 OF
9 THE CLEAN WATER ACT. THE COMMISSION SHALL ADMINISTER THE TRUST FUND AS
10 TRUSTEE.

11 B. THE TRUST FUND IS A PERMANENT ENDOWMENT FUND THAT CONSISTS OF
12 MONIES DEPOSITED FROM PROCEEDS RECEIVED BY THE DEPARTMENT AS AN IN-LIEU
13 FEE SPONSOR PURSUANT TO SECTIONS 401 AND 404 OF THE CLEAN WATER ACT, AND
14 INTEREST AND INVESTMENT INCOME EARNED ON THOSE MONIES, INCLUDING:

15 1. COMPENSATORY MITIGATION MONIES RECEIVED FROM FEDERAL IN-LIEU FEE
16 PERMITTEES THROUGH THE PURCHASE OF IN-LIEU FEE MITIGATION CREDITS.

17 2. MONIES RECEIVED FROM THE UNITED STATES ARMY CORPS OF ENGINEERS
18 FOR OTHER APPROVED IN-LIEU FEE PROGRAMS.

19 3. MONIES RECEIVED FROM THE UNITED STATES ARMY CORPS OF ENGINEERS
20 AS A RESOLUTION OF UNAUTHORIZED ACTIVITIES UNDER A COMPLETED FEDERAL
21 ENFORCEMENT ACTION THAT DOES NOT INVOLVE DEPARTMENT PERSONNEL PURSUANT TO
22 SECTIONS 401 AND 404 OF THE CLEAN WATER ACT.

23 C. MONIES IN THE TRUST FUND ARE CONTINUOUSLY APPROPRIATED. MONIES
24 IN THE TRUST FUND DO NOT REVERT TO THE STATE GENERAL FUND AND ARE EXEMPT
25 FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF
26 APPROPRIATIONS.

27 D. THE STATE TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND
28 HOLD IN TRUST ANY TRUST FUND MONIES DEPOSITED PURSUANT TO THIS SECTION IN
29 THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS DEFINED IN
30 SECTION 35-310 AND WHICH MAY NOT BE COMMINGLED WITH ANY OTHER MONIES IN
31 THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. ON NOTICE FROM THE
32 COMMISSION, THE STATE TREASURER SHALL INVEST AND DIVEST, AS PROVIDED BY
33 SECTION 35-313, 35-314 OR 35-314.03, ANY TRUST FUND MONIES DEPOSITED IN
34 THE STATE TREASURY, AND MONIES EARNED FROM INTEREST AND INVESTMENT INCOME
35 SHALL BE CREDITED TO THE TRUST FUND.

36 E. THE BENEFICIARIES OF THE TRUST ARE THE IN-LIEU FEE PROJECTS
37 SPONSORED BY THE DEPARTMENT PURSUANT TO SECTIONS 401 AND 404 OF THE CLEAN
38 WATER ACT.

39 F. MONIES IN THE TRUST FUND SHALL BE SPENT BY THE COMMISSION SOLELY
40 FOR THE FOLLOWING:

41 1. THE PURPOSES AUTHORIZED UNDER ANY ENABLING INSTRUMENT BETWEEN
42 THE COMMISSION, THE UNITED STATES ARMY CORPS OF ENGINEERS AND THE UNITED
43 STATES ENVIRONMENTAL PROTECTION AGENCY.

44 2. SITE SELECTION, DESIGN, IMPLEMENTATION, MONITORING, MANAGEMENT
45 AND ADMINISTRATIVE COSTS RELATED TO THE DEPARTMENT'S RESPONSIBILITIES AS

1 AN IN-LIEU FEE SPONSOR PURSUANT TO SECTIONS 401 AND 404 OF THE CLEAN WATER
2 ACT.

3 G. FOR THE PURPOSES OF THIS SECTION, "CLEAN WATER ACT" HAS THE SAME
4 MEANING PRESCRIBED IN SECTION 49-201.

5 Sec. 2. Section 35-142, Arizona Revised Statutes, is amended to
6 read:

7 35-142. Monies kept in funds separate from state general
8 fund; receipt and withdrawal

9 A. All monies received for and belonging to the state shall be
10 deposited in the state treasury and credited to the state general fund
11 except the following, which shall be placed and retained in separate
12 funds:

13 1. The unexpendable principal of monies received from federal land
14 grants shall be placed in separate funds and the account of each such
15 separate fund shall bear a title indicating the source and the institution
16 or purpose to which ~~such~~ THE fund belongs.

17 2. The interest, rentals and other expendable money received as
18 income from federal land grants shall be placed in separate accounts, each
19 account bearing a title indicating the source and the institution or
20 purpose to which the fund belongs. Such expendable monies shall be
21 expended only as authorized, regulated and controlled by the general
22 ~~appropriation~~ APPROPRIATIONS act or other act of the legislature.

23 3. All private or quasi-private monies authorized by law to be paid
24 to or held by the state treasurer shall be placed in separate accounts,
25 each account bearing a title indicating the source and purpose of ~~such~~ THE
26 fund.

27 4. All monies legally pledged to retirement of building
28 indebtedness or bonds issued by those institutions authorized to incur
29 such indebtedness or to issue such bonds shall be placed in separate
30 accounts.

31 5. Monies of a multi-county water conservation district authorized
32 by law to be paid to or held by the state treasurer shall be placed in
33 separate accounts, each account bearing a title indicating the source and
34 purpose of ~~such~~ THE fund.

35 6. All monies collected by the Arizona game and fish department
36 shall be deposited in a special fund known as the state game and fish
37 protection fund for the use of the Arizona game and fish commission in
38 carrying out the provisions of title 17.

39 7. All federal monies that are received by the department of
40 economic security for family assistance benefits and medical eligibility
41 as a result of efficiencies developed by the department of economic
42 security and that would otherwise revert to the state general fund
43 pursuant to section 35-190 shall be retained for use by the department of
44 economic security in accordance with the terms and conditions imposed by

1 the federal funding source in an account or accounts established or
2 authorized by the state treasurer.

3 8. Monies designated by law as special state funds shall not be
4 considered a part of the general fund. Unless otherwise prescribed by
5 law, the state treasurer shall be the custodian of all such funds.

6 9. All monies received and any accounts established and maintained
7 by the director of the Arizona state retirement system or the
8 administrator of the public safety personnel retirement system, the
9 corrections officer retirement plan and the elected officials' retirement
10 plan.

11 10. Monies received by a state agency or institution as a gift,
12 devise or donation shall not be considered a part of the state general
13 fund or transferred to the state general fund unless the gift, devise or
14 donation specifically authorizes a general state use for the monies. A
15 state agency or institution that receives a monetary gift, devise or
16 donation shall account for those monies separately.

17 11. ALL MONIES RECEIVED BY THE ARIZONA GAME AND FISH COMMISSION IN
18 CONNECTION WITH CLEAN WATER ACT IN-LIEU FEE PROJECTS SHALL BE DEPOSITED IN
19 A SPECIAL TRUST FUND KNOWN AS THE GAME AND FISH IN-LIEU FEE PROGRAM
20 RESTORATION ENDOWMENT TRUST FUND, ESTABLISHED BY SECTION 17-265, FOR THE
21 USE OF THE ARIZONA GAME AND FISH COMMISSION SOLELY FOR THE FOLLOWING:

22 (a) THE PURPOSES AUTHORIZED UNDER ANY ENABLING INSTRUMENT BETWEEN
23 THE COMMISSION, THE UNITED STATES ARMY CORPS OF ENGINEERS AND THE UNITED
24 STATES ENVIRONMENTAL PROTECTION AGENCY.

25 (b) SITE SELECTION, DESIGN, IMPLEMENTATION, MONITORING, MANAGEMENT
26 AND ADMINISTRATIVE COSTS RELATED TO THE DEPARTMENT'S RESPONSIBILITIES AS
27 AN IN-LIEU FEE SPONSOR PURSUANT TO SECTIONS 401 AND 404 OF THE CLEAN WATER
28 ACT.

29 B. No money shall be received or held by the state treasurer except
30 as authorized by law, and in every instance the treasurer shall issue a
31 receipt for money received and shall record the transaction in the
32 statewide accounting system. No money shall be withdrawn from the
33 treasury except on the warrant or electronic funds transfer voucher of the
34 department of administration.

35 C. Monies received for and belonging to ~~the~~ THIS state and
36 resulting from compromises or settlements by or against this state,
37 excluding restitution and reimbursement to state agencies for costs or
38 attorney fees, shall be credited to the state general fund unless
39 specifically credited to another fund by law. A fund consisting of monies
40 other than monies received for restitution, costs or attorney fees shall
41 not be established on the basis of a court order without prior legislative
42 authorization. For the purposes of this subsection, "restitution" means
43 monies intended to compensate a specific, identifiable person, including
44 this state, for economic loss.

1 D. All federal monies granted and paid to ~~the~~ THIS state by the
2 federal government shall be accounted for in the accounts or funds of ~~the~~
3 THIS state in the necessary detail to meet federal and state accounting,
4 budgetary and auditing requirements, and all appropriations for matching
5 such federal monies shall be transferred from the STATE general fund to
6 such separate funds as needed, except as otherwise required by the federal
7 government.

8 E. Nothing in this section requires the establishment of separate
9 accounts or funds for such federal monies unless otherwise required by
10 federal or state law. The department of administration has the authority
11 to use the most efficient system of accounts and records, consistent with
12 legal requirements and standard and necessary fiscal safeguards.

13 F. Nothing in this section precludes the creation by the department
14 of administration of a clearing account or other acceptable accounting
15 method to effect prompt payment of claims from an approved budget or
16 appropriation. The department of administration shall report each account
17 or fund established or cancelled to the directors of the joint legislative
18 budget committee and the governor's office of strategic planning and
19 budgeting.

20 G. Nothing in this section or any other section precludes the use
21 of monies kept in funds separate from the STATE general fund, the interest
22 from which accrues to the STATE general fund, for payment of claims
23 against the STATE general fund, provided sufficient monies remain
24 available for payment of claims against such funds.

25 H. The department of administration may issue warrants for
26 qualified expenditures of federal program monies before they are deposited
27 in the state treasury. The receipt of federal monies shall be timed to
28 coincide, as closely as administratively feasible, with the redemption of
29 warrants by the state treasurer. The department of administration shall
30 limit expenditures to the amount that has been made available for the use
31 under the grant award by the federal government. The state agency
32 initiating the expenditures is responsible for ensuring that expenditures
33 qualify for coverage under the guidelines of the federal grant award.

34 I. The department of administration shall establish the policies
35 and procedures for all state agencies for drawing federal monies. When
36 the established method results in federal monies being held by this state,
37 the department of administration may use the interest earned on the monies
38 to pay the federal government for any related interest liability. If an
39 interest liability is incurred due to a state agency varying from the
40 established policies and procedures, the department of administration
41 shall charge the appropriate agency account or fund. Any federal interest
42 liability owed to this state as a result of the delayed federal
43 disbursements shall be used to offset this state's interest liability to
44 the federal government. Any remaining interest earnings shall be
45 deposited in the state general fund.

1 J. Any state agency or authorized agent of a state agency may
2 accept credit cards pursuant to an agreement entered into by the state
3 treasurer pursuant to section 35-315 for the payment of any amount due to
4 that agency or agent or this state.

5 K. Except for the department of revenue, agencies or authorized
6 agents on behalf of state agencies that accept credit cards shall deduct
7 any applicable discount fee and processing fee associated with the
8 transaction amount before depositing the net amount in the appropriate
9 state fund. No other reduction is permitted against the transaction
10 amount. The net amount deposited in the appropriate state fund shall be
11 considered as the full deposit required by law of monies received by the
12 agency or the authorized agent. Payment of any applicable discount fee
13 and processing fee shall be accounted for in the annual report submitted
14 to the governor's office of strategic planning and budgeting in accordance
15 with section 41-1273. The transaction amount of any credit card
16 transaction shall not be reduced by any discount fee or processing fee in
17 an amount in excess of the merchant card settlement fees reflected in the
18 state banking contract with the state treasurer's office.

19 L. Any state agency that contracts with an authorized agent for the
20 electronic processing of transactions pursuant to title 41, chapter 23 may
21 include a provision in the contract to allow the authorized agent to
22 impose a convenience fee. If allowed, the convenience fee shall be
23 charged to the cardholder in addition to the transaction amount, except
24 for the following:

25 1. Except as provided in subsection R of this section, any permits,
26 licenses or other authorizations needed to pursue a trade or occupation in
27 this state.

28 2. Except as provided in subsection R of this section, any permits,
29 licenses or other authorizations needed to establish, expand or operate a
30 business in this state.

31 3. Except as provided in subsection R of this section, any permits,
32 licenses or other authorizations needed to register a vehicle or license a
33 driver in this state.

34 M. Each state agency or its authorized agent shall:

35 1. Deduct the amount of the convenience fee before depositing the
36 transaction amount or the transaction amount reduced by the discount fee
37 or the processing fee, or both, into the appropriate state fund.

38 2. Not deduct any part of the convenience fee from the transaction
39 amount before depositing the net amount into the appropriate state fund.

40 3. Deduct the amount of the discount fee or the processing fee, or
41 both, from the transaction amount before depositing the net amount into
42 the appropriate state fund.

43 N. The net amount deposited in the appropriate state fund pursuant
44 to subsection L or M of this section shall be considered as the full

1 deposit of monies that is required by law and that is received by the
2 agency.

3 O. Notwithstanding section 35-142.01, convenience fees received by
4 a state agency or its authorized agent are limited to, and may be used to
5 offset, the costs imposed by the authorized agent in processing the
6 transactions.

7 P. When the percentage of electronic transactions first exceeds at
8 least thirty percent of a state agency's total transactions, the state
9 agency shall perform a cost benefit report, including costs of convenience
10 fees, the amount of revenue generated and any realized cost savings.

11 Q. Nothing in this section or any other provision of law authorizes
12 any state agency, authorized agent of any state agency or budget unit to
13 establish a bank account for any government monies. All monies received
14 by or on behalf of this state shall be deposited with and in the custody
15 of the state treasurer or in an account that is authorized by the state
16 treasurer pursuant to this section. This subsection does not apply to
17 monies received and any accounts established and maintained by the
18 director of the Arizona state retirement system or the administrator of
19 the public safety personnel retirement system, the corrections officer
20 retirement plan and the elected officials' retirement plan.

21 R. If a state agency provides an alternative method of payment, the
22 convenience fee may be charged to the cardholder in addition to the
23 transaction amount.

APPROVED BY THE GOVERNOR APRIL 24, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2017.

Passed the House April 17, 2017,

Passed the Senate March 1, 2017,

by the following vote: 57 Ayes,

by the following vote: 30 Ayes,

1 Nays, 1 Not Voting

0 Nays, 0 Not Voting

[Signature]
Speaker of the House
[Signature]
Chief Clerk of the House

[Signature]
President of the Senate
[Signature]
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

S.B. 1285

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

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 19, 20 17

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

Steven B. Marklund
President of the Senate

Susan Orsini
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

19th day of April, 20 17

at 11:15 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 24th day of

April 2017

at 10:04 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 24 day of April, 20 17

at 12:20 o'clock P M.

Michelle Reagan
Secretary of State