

House Engrossed

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 269

HOUSE BILL 2753

AN ACT

AMENDING SECTION 3-1261, ARIZONA REVISED STATUTES; AMENDING SECTION 35-144, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 54, SECTION 1; AMENDING TITLE 37, CHAPTER 9, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 37-1309; AMENDING SECTIONS 49-455 AND 49-544, ARIZONA REVISED STATUTES; APPROPRIATING MONIES; RELATING TO ENVIRONMENT BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 3-1261, Arizona Revised Statutes, is amended to read:

3-1261. Adoption and recording of brand and earmark; brand as property right; sale or transfer

A. Every person owning range livestock in this state shall adopt and record a brand with the division with which to brand such livestock. Branding shall be performed by a hot iron, freezing, acid or any other method that will result in a permanent mark. Any person owning range livestock may also record an earmark with which to mark such livestock as long as the earmark is not recorded for use by neighboring range livestock owners. Sheep shall be marked distinctly with a mark or device sufficient to distinguish them. Every owner of other animals may adopt a brand or earmark with which to brand or earmark such animals.

B. No two brands of the same design or figure shall be adopted or recorded, but the associate director ~~may~~, in ~~his~~ **THE ASSOCIATE DIRECTOR'S** discretion, **MAY** reject and refuse to record a brand or mark similar to or conflicting with a previously adopted and recorded brand or mark. **A BRAND OF THE SAME DESIGN OR FIGURE THAT WAS ISSUED WITHOUT PROTEST ON OR BEFORE AUGUST 2, 2017 MAY BE RERECORDED.**

C. Before a new brand is recorded, it shall be advertised in some newspaper, journal or bulletin, published in the state, at least once, and if no objection to the brand is filed in writing, it shall be recorded as provided in this article.

D. The brand adopted and recorded is the property of the person adopting and recording it, and the right to use it may be sold, leased or transferred.

E. ~~No~~ **A** sale or transfer of the brand is **NOT** valid except by **A** bill of sale **THAT IS** duly signed and acknowledged as deeds for conveyance of real estate are acknowledged, ~~and~~ **THAT IS** recorded with the division.

F. The owner of the recorded brand shall sign the lease of the brand and file a copy of the lease with the division.

G. It is unlawful to apply a recorded brand in any location on an animal except as specified on the brand registration certificate. The application of a brand in any other location is the equivalent of the use of an unrecorded brand.

H. The division shall make recorded brands available to feedlots that are licensed in this state to identify livestock while in the feedlot for feeding purposes. The division shall issue the brand on request by the feedlot without charge, in a timely manner and with a minimum of administrative requirements. Brands issued under this subsection are not registered brands and are not prima facie evidence of ownership outside the feedlot.

Sec. 2. Section 35-144, Arizona Revised Statutes, as amended by Laws 2019, chapter 54, section 1, is amended to read:

35-144. Budget stabilization fund; definitions

A. The budget stabilization fund is established consisting of monies transferred from the state general fund pursuant to subsection B of this section. The state treasurer shall administer the budget stabilization fund and invest and divest monies in the budget stabilization fund as provided by sections 35-313 and 35-314.02, and monies earned from investment shall be credited to the budget stabilization fund. Except as provided by this section:

1. Monies in the budget stabilization fund are exempt from the provisions of section 35-190 relating to the reversion of monies to the state general fund.

2. The monies in the fund are separate monies to be used only for the purposes of the fund.

3. An amount sufficient to pay claims certified by the state forester pursuant to section 37-1305, subsection E, paragraph 4 is continuously appropriated from the fund to the state treasurer for payment of the certified claims. Not more than ~~\$10,000,000~~ \$20,000,000 in unreimbursed claims may be outstanding from the fund at any time from the monies appropriated pursuant to this paragraph.

B. In a calendar year in which the annual growth rate exceeds the trend growth rate, the excess growth when multiplied by total general fund revenue of the fiscal year ending in the calendar year determines the amount to be appropriated by the legislature to the budget stabilization fund in the fiscal year in which the calendar year ends.

C. In a calendar year in which the annual growth rate is both less than two percent and less than the trend growth rate, the difference between the annual growth rate and the trend growth rate when multiplied by the total general fund revenue of the fiscal year ending in the calendar year determines the amount to be transferred by the legislature from the budget stabilization fund to the state general fund at the end of the fiscal year in which the calendar year ends. The transfer calculated pursuant to this subsection shall not exceed the available balance in the budget stabilization fund, nor shall the legislature transfer an amount that exceeds the amount sufficient to balance the state general fund budget.

D. The legislature shall pass a bill that contains the emergency clause if the legislature either:

1. Reduces the amount for appropriation to the budget stabilization fund under subsection B of this section.

2. Increases the amount for transfer to the state general fund under subsection C of this section.

E. The annual budget recommendations of the governor and the joint legislative budget committee shall include estimates of appropriations or transfers required under subsection B or C of this section.

F. A final determination of the amount to be appropriated to or transferred from the budget stabilization fund shall be made using personal income and price deflator estimates as reported in the second calendar quarter for the preceding calendar year. The economic estimates commission shall determine the annual growth rate, the trend growth rate and the required appropriation to or transfer from the budget stabilization fund at its first meeting following the second calendar quarter report of the United States department of commerce, but not later than June 1. The commission shall certify and report its findings to the governor, the state treasurer, the president of the senate, the speaker of the house of representatives and the joint legislative budget committee.

G. The appropriation calculated pursuant to subsection B of this section may be included in the general appropriations bill for that fiscal year. Any additional appropriation calculated pursuant to subsection F of this section shall be made by a separate act.

H. At the end of a fiscal year, the budget stabilization fund balance shall not exceed ten percent of state general fund revenue for the fiscal year. Any surplus monies above ten percent shall be transferred by the state treasurer to the state general fund.

I. The state treasurer may temporarily divest monies in the budget stabilization fund to avoid a negative cash balance in operating monies. The amount divested shall not exceed the amount required to meet immediate cash needs. The state treasurer may divest monies in the budget stabilization fund only when the state general fund has a negative cash balance.

J. For the purposes of this section:

1. "Adjusted personal income" means personal income minus transfer payments, as reported by the United States department of commerce, bureau of economic analysis, or its successor agency.

2. "Annual growth rate" means the percentage change in real adjusted personal income in the calendar year ending during a fiscal year as compared to real adjusted personal income for the preceding calendar year. The annual growth rate shall be rounded to the nearest one-hundredth of one percent.

3. "GDP price deflator" means the gross domestic product price deflator reported by the United States department of commerce, bureau of economic analysis, or its successor agency.

4. "Personal income" means the total personal income of all persons in this state reported by the United States department of commerce, bureau of economic analysis, or its successor agency.

5. "Real adjusted personal income" means an amount that is determined by dividing adjusted personal income by the GDP price deflator and multiplying the result by one hundred.

6. "Transfer payments" means that portion of personal income that represents a government expenditure for which no service is rendered or product is delivered, as determined by the United States department of commerce, bureau of economic analysis, or its successor agency.

7. "Trend growth rate" means the average annual growth rate for the most recent seven calendar years, rounded to the nearest one-hundredth of one percent.

Sec. 3. Title 37, chapter 9, article 1, Arizona Revised Statutes, is amended by adding section 37-1309, to read:

37-1309. Nonnative vegetation species eradication fund; department duties; grants; annual report

A. THE NONNATIVE VEGETATION SPECIES ERADICATION FUND IS ESTABLISHED CONSISTING OF LEGISLATIVE APPROPRIATIONS FOR SPECIFIC NONNATIVE VEGETATION INVASIVE SPECIES ERADICATION PROJECTS. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE ARIZONA DEPARTMENT OF FORESTRY AND FIRE MANAGEMENT FOR THE PURPOSES OF THIS SECTION AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS. ON NOTICE FROM THE STATE FORESTER, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED IN SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

B. THE ARIZONA DEPARTMENT OF FORESTRY AND FIRE MANAGEMENT SHALL:

1. COORDINATE WITH THE ARIZONA STATE LAND DEPARTMENT ON PROJECTS CONDUCTED ON STATE TRUST LAND PURSUANT TO THIS SECTION.

2. COORDINATE WITH THE ARIZONA GAME AND FISH DEPARTMENT ON PROJECTS CONDUCTED PURSUANT TO THIS SECTION.

3. MONITOR AND OVERSEE SPECIFIC PROJECTS FOR WHICH THE LEGISLATURE APPROPRIATES MONIES TO THE NONNATIVE VEGETATION SPECIES ERADICATION FUND.

4. PROVIDE GRANTS TO OTHER STATE AGENCIES, CITIES, TOWNS, COUNTIES, INDIAN TRIBES AND OTHER POLITICAL SUBDIVISIONS OF THIS STATE AND TO NONPROFIT ORGANIZATIONS FOR NONNATIVE VEGETATION INVASIVE SPECIES ERADICATION PROJECTS THAT WILL ASSIST IN PREVENTING FIRE AND FLOODING, CONSERVING WATER, REPLACING NONNATIVE VEGETATIVE SPECIES WITH NATIVE VEGETATIVE SPECIES AND RESTORING HABITAT TO WILDLIFE. A GRANT RECIPIENT SHALL FOLLOW STATE AND FEDERAL LAWS TO PRESERVE ENDANGERED SPECIES WHEN IMPLEMENTING THE NONNATIVE VEGETATION INVASIVE SPECIES ERADICATION PROJECT.

5. ESTABLISH APPLICATION PROCEDURES AND QUALIFICATION CRITERIA FOR THE GRANTS. GRANTS AWARDED PURSUANT TO THIS SECTION SHALL BE AWARDED IN ACCORDANCE WITH TITLE 41, CHAPTER 24.

C. ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE ARIZONA DEPARTMENT OF FORESTRY AND FIRE MANAGEMENT SHALL REPORT TO THE JOINT LEGISLATIVE BUDGET COMMITTEE AND THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND BUDGETING THE TOTAL EXPENDITURES FROM THE PREVIOUS YEAR FOR GRANTS FOR NONNATIVE VEGETATION SPECIES ERADICATION PROJECTS. THE REPORT SHALL INDICATE EACH PROJECT'S EXPENDITURES, THE BENEFITS OF EACH PROJECT TO THE TREATED LAND, THE STATUS OF EACH PROJECT AND THE PROJECTED TIMELINE FOR COMPLETION OF EACH PROJECT.

Sec. 4. Section 49-455, Arizona Revised Statutes, is amended to read:

49-455. Permit administration fund; exemption

A. ~~A~~ **THE** permit administration fund is established consisting of fees and interest collected pursuant to this article and section 27-515. The director shall administer the fund subject to annual legislative appropriation. On notice from the director, the state treasurer shall invest and divest monies in the fund as provided in section 35-313, and monies earned from investment shall be credited to the fund. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

B. Monies in the fund collected pursuant to sections 49-426 and 49-426.01 shall be used **TO PAY** for the following:

1. In the case of fees collected pursuant to section 49-426, subsection E, paragraph 1, all reasonable direct and indirect costs required to develop and administer the permit program requirements of title V of the clean air act.

2. In the case of other fees, administering permits or revisions issued pursuant to section 49-426 or 49-426.01 or conducting inspections.

3. **ALL REASONABLE AND NECESSARY COSTS TO PROVIDE STAFF SUPPORT PURSUANT TO SECTION 27-515, SUBSECTION A.**

C. Monies in the fund collected pursuant to section 27-515, subsection B, paragraph 5 shall be used to prepare, reproduce and distribute publications pursuant to that paragraph.

D. ~~No~~ **NOT** more than five percent of the monies in the fund may be used for the collection of monies, unless otherwise provided under title V of the clean air act.

E. ~~No~~ **NOT** more than five percent of the monies in the fund may be used for general administration of the fund unless otherwise provided under title V of the clean air act.

Sec. 5. Section 49-544, Arizona Revised Statutes, is amended to read:

49-544. Emissions inspection fund; composition; authorized expenditures; exemptions; investment

A. ~~An~~ **THE** emissions inspection fund is established and is subject to legislative appropriation. The emissions inspection fund shall consist of:

1. Monies appropriated to the fund by the legislature.

2. All monies collected pursuant to section 49-543, subsection A.

3. All monies collected by the director for the issuance of inspection certificates to owners of fleet emissions inspection stations.

4. Monies received from private grants or donations when so designated by the grantor or donor.

5. Monies received from the United States by grant or otherwise to assist ~~the~~ **THIS** state in any emissions inspection program.

B. Monies in the emissions inspection fund may be used for the following:

1. Enforcement of the provisions of this article related to fleet emissions inspections, exemptions, and certificates of waiver.

2. Payment of contractual charges to independent contractors pursuant to section 49-545.

3. Costs to the state of administering:

(a) The emissions inspection services performed by the independent contractor, including inspection station auditing, contractor training and certification, and motorist assistance.

(b) **TRAVEL REDUCTION PROGRAMS PRESCRIBED BY THIS CHAPTER.**

4. Funding ~~the~~ **THIS** state's portion of the catalytic converter program costs prescribed by section 49-542.

~~5. Through June 30, 2005, conducting research studies to evaluate the feasibility and effectiveness of emission system control technologies, including the repair of vehicles participating in the studies.~~

~~6. 5. Other costs of administering and enforcing the provisions of this article.~~

C. The department of environmental quality shall approve and provide for the payment of contractual charges to independent contractors and for enforcement of the provisions of this article related to fleet emissions inspections, exemptions and certificates of waiver.

D. Monies in the emissions inspection fund are exempt from the provisions of section 35-190, relating to lapsing of appropriations.

E. On notice from the department, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

Sec. 6. Off-highway vehicle recreation fund; use

Notwithstanding section 28-1176, Arizona Revised Statutes, the Arizona state parks board shall use \$692,100 from the Arizona state parks board portion of the off-highway vehicle recreation fund established by section 28-1176, Arizona Revised Statutes, in fiscal year 2019-2020 for repairs, maintenance and development of the Arizona portion of the Great Western Trail.

Sec. 7. Arizona water protection fund; use

Notwithstanding section 45-2114, Arizona Revised Statutes, in fiscal year 2019-2020, the Arizona water protection fund commission may grant to the department of water resources up to \$336,000 of the unobligated balance in the Arizona water protection fund established by section 45-2111, Arizona Revised Statutes, to pay for administrative costs of the department in fiscal year 2019-2020.

Sec. 8. Underground storage tank revolving fund; use of monies

Notwithstanding any other law, in fiscal year 2019-2020, the department of environmental quality may use up to \$6,531,000 from the underground storage tank revolving fund established by section 49-1015, Arizona Revised Statutes, in fiscal year 2019-2020 for:

1. Administrative costs of the department.

2. Remediating sewage discharge issues in Naco, Arizona and other border areas of Arizona.

Sec. 9. Arizona water banking fund; use

In addition to the purposes provided in section 45-2425, Arizona Revised Statutes, monies appropriated to the Arizona navigable stream adjudication commission from the Arizona water banking fund established by section 45-2425, Arizona Revised Statutes, may be used in fiscal year 2019-2020 to pay legal fees.

Sec. 10. Appropriations; reduction; water quality assurance revolving fund; intent

A. Notwithstanding section 49-282, Arizona Revised Statutes, no monies are appropriated from the state general fund to the water quality assurance revolving fund established by section 49-282, Arizona Revised Statutes, for fiscal year 2019-2020.

B. Notwithstanding any other law, the following amounts from the following sources are appropriated in fiscal year 2019-2020 to the water quality assurance revolving fund established by section 49-282, Arizona Revised Statutes:

1. \$2,800,000 from the emissions inspection fund established by section 49-544, Arizona Revised Statutes, as amended by this act.

2. \$2,600,000 from the air quality fund established by section 49-551, Arizona Revised Statutes.

3. \$5,000,000 from the underground storage tank revolving fund established by section 49-1015, Arizona Revised Statutes.

4. \$1,000,000 from the permit administration fund established by section 49-455, Arizona Revised Statutes, as amended by this act.

5. \$2,152,000 from the recycling fund established by section 49-837, Arizona Revised Statutes.

C. The legislature intends that the amounts appropriated in subsection B of this section be supplemented by \$2,000,000 of monies directly deposited in the water quality assurance revolving fund established by section 49-282, Arizona Revised Statutes.

Sec. 11. Department of environmental quality; vehicle emissions testing fees; exemption from rulemaking

A. Notwithstanding any other law, the director of environmental quality shall charge the same fees in fiscal year 2019-2020 that were charged in fiscal year 2018-2019 for tests conducted in Area A, as defined in section 49-541, Arizona Revised Statutes.

B. The department of environmental quality is exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, until July 1, 2020 for the purpose of establishing fees pursuant to this section.

Sec. 12. Water resources fees; increase; intent; exemption from rulemaking

A. Notwithstanding any other law, the director of water resources may increase fees in fiscal year 2019-2020 for services in fiscal year 2019-2020.

B. Monies received from the fees collected pursuant to subsection A of this section shall be deposited in the water resources fund established by section 45-117, Arizona Revised Statutes.

C. The legislature intends that the monies generated by the fees collected pursuant to subsection A of this section not exceed \$100,200.

D. The department of water resources is exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, until July 1, 2020 for the purpose of establishing fees pursuant to this section.

APPROVED BY THE GOVERNOR MAY 31, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 31, 2019.