

REFERENCE TITLE: water bank; excess CAP water

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

SB 1356

Introduced by
Senators Pierce S: Alvarez

AN ACT

AMENDING SECTIONS 45-2402 AND 45-2427, ARIZONA REVISED STATUTES; RELATING TO
THE ARIZONA WATER BANKING AUTHORITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-2402, Arizona Revised Statutes, is amended to
3 read:

4 45-2402. Definitions

5 Unless the context otherwise requires, the terms defined in sections
6 45-101, 45-402 and 45-802.01 have the same meaning in this chapter and for
7 purposes of this chapter:

8 1. "Authority" means the Arizona water banking authority.

9 2. "Banking fund" means the Arizona water banking fund.

10 3. "Central Arizona water conservation district" or "CAWCD" means the
11 multi-county water conservation district established under title 48, chapter
12 22.

13 4. "Commission" means the Arizona water banking authority commission.

14 5. "Decree" means the decree entered by the United States supreme
15 court in Arizona v. California, 376 U.S. 340 (1964).

16 6. "EXCESS CENTRAL ARIZONA PROJECT WATER" MEANS CENTRAL ARIZONA
17 PROJECT WATER THAT IN ANY YEAR WOULD OTHERWISE NOT BE USED, RESOLD OR
18 EXCHANGED PURSUANT TO LONG-TERM CONTRACTS AND SUBCONTRACTS FOR CENTRAL
19 ARIZONA PROJECT WATER.

20 ~~6-~~ 7. "Indian firming" means measures taken to ensure that central
21 Arizona project non-Indian agricultural priority water that is made available
22 to Indian tribes pursuant to Public Law 108-451 may be delivered during water
23 shortages in the same manner that water with a municipal and industrial
24 priority in the central Arizona project system is delivered during water
25 shortages.

26 ~~7-~~ 8. "Water banking services" means services provided by the
27 authority to persons and Indian communities in this state to facilitate for
28 those persons and Indian communities storage of water and stored water
29 lending arrangements. Water banking services include the direct delivery of
30 water to Indian communities in this state in replacement of or supplemental
31 to the accrual of long-term storage credits pursuant to article 5 of this
32 chapter. Water banking services include only arrangements by which water
33 will be made available for use in this state. Water banking services do not
34 include interstate water banking undertaken by the authority pursuant to
35 article 4 of this chapter. Water banking services may include:

36 (a) Storage of water.

37 (b) Obtaining water storage permits.

38 (c) Accruing, exchanging and assigning long-term storage credits.

39 (d) Lending and obtaining repayment of long-term storage credits.

40 ~~8-~~ 9. "Water banking services agreement" means an agreement entered
41 into between the authority and a person or Indian community in this state
42 under which the authority will provide water banking services to that person
43 or Indian community.

1 Sec. 2. Section 45-2427, Arizona Revised Statutes, is amended to read:
2 45-2427. Limitation on powers

3 A. This chapter does not authorize the authority to exercise any right
4 of eminent domain.

5 B. **EXCEPT AS PROVIDED IN SUBSECTION E OF THIS SECTION:**

6 1. The authority shall not store Colorado river water that would
7 otherwise have been used in this state pursuant to a contract entered into
8 pursuant to section 48-3703, paragraph 2, a section 5 contract under the
9 Boulder Canyon project act (P.L. 108-6; 43 United States Code section 617)
10 with a priority that is equal to or higher than a contract entered into
11 pursuant to section 48-3703, paragraph 2 or any other section 5 contract
12 under the Boulder Canyon project act entered into before ~~the effective date~~
13 ~~of this amendment to this section~~ **SEPTEMBER 18, 2003.**

14 2. The authority shall not store for interstate water banking purposes
15 Colorado river water that would otherwise have been used in this state.

16 C. The authority shall not enter into contracts with agencies in
17 California and Nevada for the storage of water on their behalf until both of
18 the following occur:

19 1. Regulations are in effect, promulgated by the secretary of the
20 interior of the United States, that facilitate and allow the contractual
21 distribution of unused entitlement under article II(b)(6) of the decree.

22 2. The director finds that the rules promulgated by the secretary of
23 the interior adequately protect this state's rights to Colorado river water,
24 as those rights are defined by the decree.

25 D. The authority shall not enter into water banking services
26 agreements that will provide water for use outside this state. The authority
27 may cancel any water banking services agreement without penalty or further
28 obligation if after entering into a water banking services agreement, the
29 authority finds that the agreement will provide water for use outside of this
30 state. Notice of this subsection shall be included in every water banking
31 services agreement entered into by the authority. The cancellation under
32 this subsection shall be effective when written notice from the authority is
33 received by all other parties to the water banking services agreement.

34 E. **THE AUTHORITY MAY OBTAIN AND STORE OR REPLENISH, AS APPLICABLE, ANY**
35 **OF THE FOLLOWING EXCESS CENTRAL ARIZONA PROJECT WATER SUPPLIES AS DESIGNATED**
36 **BY CAWCD:**

37 1. **ANY EXCESS CENTRAL ARIZONA PROJECT WATER MADE AVAILABLE BY CAWCD IN**
38 **A YEAR EXCLUSIVELY FOR THE AUTHORITY. THE AUTHORITY SHALL USE ANY EXCESS**
39 **CENTRAL ARIZONA PROJECT WATER OBTAINED PURSUANT TO THIS PARAGRAPH IN A MANNER**
40 **CONSISTENT WITH ARTICLES 3 AND 5 OF THIS CHAPTER OR CHAPTER 15, ARTICLE 3 OF**
41 **THIS TITLE, INCLUDING MEETING INDIAN FIRING OBLIGATIONS, REPLENISHING WATER**
42 **UNDER THE GILA RIVER INDIAN WATER SETTLEMENT PROGRAM AND STORING WATER FOR**
43 **MUNICIPAL AND INDUSTRIAL PURPOSES IN TIMES OF SHORTAGE.**

1 2. ANY EXCESS CENTRAL ARIZONA PROJECT WATER MADE AVAILABLE BY CAWCD IN
2 A YEAR FOR THE PURPOSE OF STORING WATER TO MEET A CONTRACTUAL OBLIGATION OF
3 THE AUTHORITY UNDER AN INTERSTATE WATER BANKING AGREEMENT ENTERED INTO
4 PURSUANT TO ARTICLE 4 OF THIS CHAPTER IF THE EXCESS CENTRAL ARIZONA PROJECT
5 WATER RESULTED FROM THE ACQUISITION OF ADDITIONAL COLORADO RIVER WATER BY
6 CAWCD USING MONIES CONTRIBUTED BY THE AUTHORITY.

7 Sec. 3. Emergency

8 This act is an emergency measure that is necessary to preserve the
9 public peace, health or safety and is operative immediately as provided by
10 law.