



Forty-ninth Legislature - Second Regular Session

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FOR

***ARIZONA STATE SENATE***
Forty-ninth Legislature, Second Regular Session

FACT SHEET FOR S.B. 1355

water use assessmentPurpose

An emergency measure that establishes the Water Resources Fund, and imposes water use assessments on specified water users. Makes statutory changes to the Dam Repair Fund.

Background

Established in 1980, the Arizona Department of Water Resources (ADWR) is responsible for managing Arizona's water resources to ensure long-term water supplies for the state. ADWR administers and enforces Arizona's groundwater and surface water law, and represents the state's water rights for the state and with the federal government. In order to carry out its role, ADWR administers several programs, including dam safety and flood damage protection, assured and adequate water supply administration, general stream adjudication support, rural water studies, conservation and drought programs, and automated groundwater monitoring, among others. ADWR is authorized to establish and collect fees—in statute and by rule—to carry out its statutory responsibilities.

ADWR is funded by appropriations from the state General Fund, as well as other appropriated, nonappropriated and federal funds. In FY 2010, ADWR was appropriated \$16,879,900 in General Fund monies.

The fiscal impact to the state General Fund is unknown. However, because ADWR is funded by state General Fund monies, revenues raised from water use assessments may result in a reduction of ADWR's reliance on the General Fund. ADWR estimates the provisions of this bill would generate \$18-20 million annually to the department.

Provisions***Water Resources Fund***

1. Establishes the Water Resources Fund (WRF) consisting of monies collected from water use assessments imposed on *municipal water delivery systems*, *agricultural irrigated acreage* and *industrial uses*. The WRF also includes appropriations by the Legislature, gifts, grants and donations from public or private sources and interest. The Director of ADWR (Director) administers the WRF.
2. Specifies that the WRF is to be maintained in perpetuity, and that monies are to be used exclusively by ADWR to carry out its functions as mandated by statute. Monies are continuously appropriated and nonlapsing.
3. Prohibits ADWR from issuing a license or permit to a person who has not met the reporting requirements or paid the assessment.

Water Use Assessment

4. Requires the Director to establish by rule a water use assessment against the owner or operator of a *municipal water delivery system*, *agricultural irrigated acreage* and land that is more than ten acres in size that uses water for *industrial* purposes. Adds a new section of law within the ADWR's general administration laws to establish the provisions for water use assessments.

Municipal Water Delivery Systems

5. Requires Arizona Department of Revenue (ADOR) to collect water use assessments imposed on *municipal water delivery systems*. A *municipal water delivery system* provides water for end use and includes, but is not limited to, municipal water providers, private water companies and county improvement districts. Water that is delivered to a customer for resale is exempt from the assessment.
6. Requires the owner of a *municipal water delivery system* to pay the water assessment at the same time and through the existing system currently used to pay Transaction Privilege Taxes (TPT). If the water provider does not charge a TPT, the assessment still must be reported and paid monthly to the ADOR. ADOR is required to separately account for the monies it receives, and deposit assessment monies into the WRF.
7. Specifies the administration, collection and enforcement of assessments is governed by the general administrative procedures currently prescribed by TPT law, with the following exceptions: 1) if a municipal water system is subject to a TPT, the water provider does not have to obtain a separate license from ADOR or secure a surety bond; and 2) a separate bond is not required of ADOR employees. Current law requires ADOR agents acting on behalf of the department who perform tax-related functions to secure a \$5,000 bond, or ADOR can bond for any or all of its agents in a multiple or joint bond.

Agricultural Irrigated Acreage

8. Requires the Director to establish by rule a water use assessment to be paid by the owner or operator of *agricultural irrigated acreage* for deposit into the WRF. *Agricultural irrigated acreage* is defined as land that is irrigated with any water during a year.
9. Requires an owner to report the number of acres irrigated during the previous calendar year to the Director by March 31 of each year, and include payment of the assessment. For CY 2010, the owner is required to report and include payment for the number of irrigated acres after the effective date of S.B. 1355.
10. Allows the Director to assess and collect a civil penalty if the owner does not file a water use report for the calendar year. The civil penalty is \$25 for each month, or portion of the month, that the report is delinquent, not to exceed a total of \$150. Civil penalties are deposited in the state General Fund.
11. Requires that the report made to the Director contain a sworn statement or certification that states the information provided in the report is true and correct.

12. Specifies that the records and reports for assessments are to be prescribed by the Director. Failure to receive or obtain forms does not relieve a person from keeping the required records or making required reports.

Industrial Uses

13. Requires the Director to establish by rule a water use assessment against the owner or operator of land where there is an industrial water use. This applies to land that is ten or more acres in size. *Industrial water* is defined as any water not delivered by a municipal water delivery system, not used to irrigate agricultural irrigated acreage and not used for stock watering or domestic purposes. Assessments for industrial water use are deposited into the WRF.
14. Requires an owner to report the number of gallons withdrawn, diverted or received during the previous calendar year to the Director by March 31 of each year, and include payment of the assessment. For CY 2010, the owner is required to report and include payment for the number of gallons withdrawn, diverted or received after the effective date of S.B. 1355.
15. Allows the Director to assess and collect a civil penalty if the owner does not file a water use report for the calendar year. The civil penalty is \$25 for each month, or portion of the month, that the report is delinquent, not to exceed a total of \$150. Civil penalties are deposited in the state General Fund.
16. Requires that the report made to the Director contain a sworn statement or certification that states the information provided in the report is true and correct.
17. Specifies that the records and reports for water assessments are to be prescribed by the Director. Failure to receive or obtain forms does not relieve a person from keeping the required records or making required reports.

Civil Penalties

18. Requires a person who violates the requirements for water use assessments, including failure and refusal to pay, to pay a \$1,000 per diem civil penalty. Civil penalties are deposited into the state General Fund.
19. Specifies that any action to recover an assessment or civil penalty must be brought before Superior Court. Prescribes criteria for the court to consider when adjudicating the complaint.

Dam Repair Fund and Safety

20. Modifies the use of monies in the Dam Repair Fund to encompass all expenses related to dams and reservoirs. Currently, monies in the Dam Repair Fund are limited to remedial measures related to the maintenance and operation of dams.
21. Removes the requirement for dam repair loans and grants to be approved by the Joint Legislative Budget Committee.

Miscellaneous

22. As session law, exempts the Director from the rulemaking requirements required by law for 12 months after the effective date of S.B. 1355 in order for ADWR to adopt rules that establish water use assessments.
23. Becomes effective on signature of the Governor, if the emergency clause is enacted.
24. Defines agricultural irrigated acreage, domestic purposes, industrial water, irrigate, municipal water delivery system and stock watering.

25. Makes technical, clarifying and conforming changes.

Prepared by Senate Research

February 5, 2010

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