

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

# HOUSE BILL 2132

AN ACT

AMENDING SECTIONS 45-2244 AND 45-2281, ARIZONA REVISED STATUTES; RELATING TO  
COUNTY WATER AUTHORITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-2244, Arizona Revised Statutes, is amended to  
3 read:

4 45-2244. Acquisition and disposition of initial quantity of  
5 water

6 A. The authority, acting through its board, shall apportion the rights  
7 to the delivery of the first eighteen thousand five hundred acre-feet per  
8 year of Colorado river water that it obtains as follows:

9 1. The right to the delivery of ~~fifteen~~ EIGHTEEN thousand FIVE HUNDRED  
10 acre-feet per year of Colorado river water shall be apportioned by  
11 subcontract and made available to authority members for municipal uses.

12 ~~2. The right to the delivery of three thousand five hundred acre-feet~~  
13 ~~per year of Colorado river water shall be apportioned by subcontract and made~~  
14 ~~available for industrial uses.~~

15 ~~3.~~ 2. Notwithstanding the apportionment to municipal ~~and industrial~~  
16 uses as prescribed by ~~paragraphs~~ PARAGRAPH 1 ~~and 2 of this subsection,~~  
17 Colorado river water may be made available by the authority for industrial,  
18 agricultural or miscellaneous uses as prescribed by subsection ~~F~~ E of this  
19 section until that water is needed for municipal ~~or industrial~~ uses.

20 B. The authority, acting through its board, shall make available  
21 Colorado river water that is apportioned for municipal uses as prescribed by  
22 subsection A, paragraph 1 of this section to authority members through  
23 subcontracts between the authority and the authority member for the sale and  
24 delivery of Colorado river water. The term of these subcontracts may be  
25 coextensive with the term of the contract with the United States pursuant to  
26 which the authority obtains the Colorado river water or the duration of the  
27 subcontracts may be for a lesser term. The rate charged for the Colorado  
28 river water made available to the authority members for municipal uses may be  
29 fixed for all or part of the subcontract term but shall be established by  
30 subcontract to permit the authority member to provide the water to its  
31 customers at a reasonable cost as determined by the authority in the exercise  
32 of its discretion. Any subcontract may require the authority member to pay  
33 water supply fees or to assess and share the cost of water supply fees with  
34 the authority. Water supply fees include standby or holding charges,  
35 development impact fees, connection fees, extraction fees, user fees,  
36 administrative fees, other fees or charges that the subcontract requires and  
37 the member collects for new uses to be served with the water made available  
38 pursuant to subcontract or any other fees that the authority determines to be  
39 necessary or prudent to fund the acquisition of replacement supplies of  
40 water. Any such fees assessed or collected by the authority member shall be  
41 remitted to the authority and deposited in the funds of the authority as  
42 provided in this chapter.

43 C. The Colorado river water apportioned for municipal uses under  
44 subsection B of this section shall be served by the authority member within  
45 the service area established for the authority member in any water service

1 contract between the authority member and the United States. The Colorado  
2 river water so apportioned may not be served to any single industrial user  
3 for manufacturing purposes, processing purposes or thermoelectric power  
4 generation, with a demand greater than two hundred fifty acre-feet per year  
5 until the end of the seventh year after the authority is formed.

6 D. If Colorado river water that is made available to authority members  
7 for municipal uses pursuant to subsection B of this section is not  
8 subcontracted for by authority members within one year of the authority's  
9 formation pursuant to section 45-2202, subsection C, the Colorado river water  
10 may be made available by subcontract to other municipal water providers in  
11 the county in which the authority is formed on terms consistent with this  
12 section.

13 ~~E. The authority shall make Colorado river water that is apportioned  
14 for industrial uses as provided in subsection A, paragraph 2 of this section  
15 available to applicants through subcontracts for the sale and delivery of  
16 that water. The term of the subcontracts shall be set by the authority and  
17 may be coextensive with the term of the contract with the United States  
18 pursuant to which the authority obtains the Colorado river water. The rate  
19 charged for Colorado river water made available to applicants for industrial  
20 uses may be established by subcontract or by tariff set by the  
21 authority. The rate charged may vary or may be fixed for all or a part of  
22 the subcontract term. The initial rate charged per acre-foot shall not be  
23 less than the rate charged per acre-foot by a multi-county water conservation  
24 district, or its successors, for the capital and fixed operation and  
25 maintenance charges associated with an acre foot of central Arizona project  
26 municipal and industrial water in the year in which the authority  
27 subcontracts for the sale and delivery of the water.~~

28 F. E. Notwithstanding the apportionment to municipal ~~and industrial~~  
29 uses as provided in subsection A, ~~paragraphs~~ PARAGRAPH 1 ~~and 2~~ of this  
30 section, the authority may subcontract for the delivery of Colorado river  
31 water for industrial, agricultural or miscellaneous uses for which  
32 subcontracts have not been executed as provided in ~~subsections~~ SUBSECTION B  
33 ~~and E~~ of this section or for which subcontracts have been executed as  
34 provided in ~~subsections~~ SUBSECTION B ~~and E~~ of this section if there is no  
35 current demand for the water by the subcontractors. A subcontract for the  
36 delivery of Colorado river water for an industrial, agricultural or  
37 miscellaneous use under this subsection shall not be for a term of more than  
38 five years. A subcontract under this subsection may serve an existing use of  
39 Colorado river water which was not supported by a contract for the delivery  
40 of Colorado river water on January 1, 1994, or a new use of Colorado river  
41 water initiated after January 1, 1994. A subcontract under this subsection  
42 shall be subject to the approval of subcontractors with subcontracts entered  
43 into pursuant to subsection B of this section. Any subcontract under this  
44 subsection shall impose the charge per acre-foot of Colorado river water  
45 delivered that the authority in its discretion determines to be adequate.

1 Any subcontract under this subsection may be renewed or extended successively  
2 for the same or a shorter period of time. For THE purposes of this  
3 subsection, "miscellaneous use" means a use of water for recreational or fish  
4 and wildlife purposes.

5 ~~G.~~ F. The authority may accept transfers of the Colorado river water  
6 entitlements of its members and may contract with the United States for the  
7 delivery to the authority of the initial eighteen thousand five hundred  
8 acre-feet a year of Colorado river water obtained by the authority. The  
9 authority may contract with the United States for the delivery of any  
10 additional amounts of water obtained by the authority from its members and  
11 may contract as provided in section 45-2245.

12 ~~H.~~ G. Any subcontract under this section shall require the Colorado  
13 river water delivered pursuant to the subcontract to be used in the county in  
14 which the authority is formed.

15 Sec. 2. Section 45-2281, Arizona Revised Statutes, is amended to read:

16 45-2281. Establishment of funds; allocation of authority  
17 revenues; member dues

18 A. On the authority's formation, a grant fund, a water acquisition  
19 fund and an operating fund are established. The authority's revenues shall  
20 be deposited in and disbursed from the funds as provided by this section.  
21 Revenues deposited in the grant fund may be used to make grants to authority  
22 members for water acquisition, water conservation and water reuse. Revenues  
23 deposited in the water acquisition fund may be used to acquire water pursuant  
24 to section 45-2245. Revenues deposited in the operating fund shall be used  
25 as provided in subsection E of this section.

26 B. Except as provided in subsection D of this section, all revenues of  
27 the authority shall be deposited in the grant fund except the following:

28 1. Dues paid by authority members, which shall be deposited in the  
29 operating fund.

30 2. Ten per cent of all amounts paid by municipal subcontractors under  
31 subcontracts entered into as provided in section 45-2244, subsection B, which  
32 may be deposited in the operating fund or the water acquisition fund as  
33 determined by the board.

34 3. Fifty per cent of all amounts paid by subcontractors of the  
35 authority pursuant to subcontracts entered into as provided in section  
36 45-2244, subsection E ~~or F.~~

37 4. That portion of the monies earned by the authority under  
38 subcontracts entered into pursuant to section 45-2245, subsection H that is  
39 equal to the cost to the authority of obtaining the water transferred under  
40 those subcontracts and, after payment of seven million five hundred thousand  
41 dollars as adjusted pursuant to subsection C of this section, all of the  
42 monies earned from those subcontracts.

43 C. Except as provided in subsection B of this section, all of the  
44 authority's revenues shall be deposited in the grant fund until the full  
45 amount of the initial grant and any additional amounts required in a grant

1 agreement between the authority and the member that receives the grant have  
2 been disbursed from the grant fund as provided in this subsection. The  
3 initial grant from the grant fund shall be made to the authority member that  
4 transferred, or caused to be transferred, to the authority the right to the  
5 delivery of eighteen thousand five hundred acre-feet per year of Colorado  
6 river water in connection with the authority's formation. The amount of the  
7 grant to that member shall equal seven million five hundred thousand dollars  
8 plus any additional monies that the authority and the member agree to in a  
9 grant agreement between the authority and the member, which amount shall be  
10 adjusted annually from the date of the authority's formation either for  
11 inflation or as may otherwise be provided in the subcontracts of the  
12 authority or in the grant agreement, until the amount of the initial grant  
13 required by this subsection and any additional amounts required by the grant  
14 agreement are paid in full. The initial grant may be disbursed in a lump sum  
15 or in partial payments in accordance with the request of the authority member  
16 that is entitled to receive the grant and as revenues become available to the  
17 authority and are deposited in the grant fund. The authority member that is  
18 entitled to receive the grant may request that disbursements be made whenever  
19 revenues have been deposited in the grant fund. Notwithstanding section  
20 45-2282, the authority shall promptly disburse those revenues that are  
21 deposited in the fund on receipt of a request from that member.

22 D. After the disbursement of the full amount of the initial grant and  
23 any additional amounts required in a grant agreement of the authority from  
24 the grant fund as provided in subsection C of this section, the authority's  
25 revenues, except dues paid by authority members, may be deposited in the  
26 grant fund, water acquisition fund or operating fund as determined by the  
27 board.

28 E. The authority shall establish a schedule of dues that is  
29 sufficient, when aggregated with other monies available for the payment of  
30 administrative expenses, to pay the estimated administrative expenses of the  
31 authority. Dues shall be assessed and allocated equitably among authority  
32 members as determined by the board. All dues received by the authority shall  
33 be deposited in the operating fund. Expenditures may be made from the  
34 operating fund to pay:

35 1. The authority's administrative expenses.

36 2. The costs of the authority's formation including an equitable  
37 portion of the costs of the municipal corporation that transferred rights to  
38 the delivery of Colorado river water as provided in section 45-2202.

39 3. The costs associated with holding any entitlement to water acquired  
40 by the authority.

41 4. Subject to subsection C of this section, the costs incurred by the  
42 authority in the operation of any project undertaken by the authority  
43 pursuant to this chapter.

1           5. Amounts payable to the United States annually for the right to hold  
2 and use the eighteen thousand five hundred acre-feet per year of Colorado  
3 river water acquired by the authority pursuant to section 45-2202, subsection  
4 C, which amounts may include any tax, fee or excise imposed upon the sale or  
5 transfer of the water.  
6           F. Any authority member that is in arrears in the payment of its dues  
7 for more than sixty days shall lose the right of its appointed director to  
8 vote on all authority matters until all of the dues that are in arrears are  
9 fully paid. An authority member whose dues are in arrears does not lose  
10 membership in the authority because of the arrearage.