



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fifth Legislature
Second Regular Session

HB 2406: water quality fee fund

Sponsor: Representative Griffin, LD 14
Committee on Natural Resources, Energy & Water

Overview

Broadens the activities financed by the Water Quality Fee Fund. Repeals provisions limiting the Arizona Department of Environmental Quality (ADEQ) to one-time increases in fees for the Arizona Pollutant Discharge Elimination System Program and Aquifer Protection Permit Program and allows ADEQ to set fees for these programs' expenses.

History

Water Quality Fee Fund

ADEQ administers the Water Quality Fee Fund to finance certain regulatory programs that ensure surface water and groundwater comply with state and federal requirements. The fund receives revenue from a variety of inspection and permit fees from several water quality programs. [Laws 2010, Chapter 265](#) limited ADEQ to increasing aquifer protection permit, aquifer protection permit annual registration and Arizona Pollutant Discharge Elimination System program fees once unless it received specific statutory authority to do so. Fund monies can be used for specific regulatory programs such as administering the Underground Injection Control Permit Program and issuing aquifer protection permits ([A.R.S. § 49-210](#)).

Aquifer Protection Permit Program

Aquifer protection permits are generally required for facilities such as mine leaching operations, sewage treatment facilities and underground water storage facilities that discharge pollutants into groundwater ([A.R.S. § 49-241](#)). These permits require a discharger to comply with aquifer water quality standards and employ best available demonstrated control technologies (A.R.S. §§ [49-243](#), [49-245](#)).

Arizona Pollutant Discharge Elimination System Program

The Clean Water Act generally prohibits discharges of pollutants into "waters of the United States." The National Discharge Pollution Elimination System Program, which is authorized by this act, regulates point source discharges of pollutants from municipal, domestic and industrial sources into these waters. The EPA has delegated to ADEQ the authority to administer a similar permit program to regulate discharges into navigable waters within its jurisdiction, which is called the Arizona Pollutant Discharge Elimination System Program ([33 U.S.C. §1342\(b\)](#) and [A.R.S. § 49-255 et seq.](#)). This program issues either general permits, which cover discharges within a geographic area, or individual permits that cover a single point source, facility or municipal separate storm sewer system ([R18-9-A901](#)).

Fee Setting Process

A state agency must have the statutory authority to adopt rules setting fees ([A.R.S. § 41-1008](#)). The rulemaking process requires an agency to publish separate notices for opening a rulemaking docket and proposing a rule as part of this docket. An agency also must notify anyone who requested to be updated on proposed rulemaking (A.R.S. §§ [41-1021](#) and [41-1022](#)). Once the proposed rule is published, the agency must allow at least a 30-day public comment period. The

agency must also hold a public hearing on the proposed rule if requested ([A.R.S. § 41-1023](#)). After the public comment period ends, the agency has 120 days to either end the rulemaking or submit the rule to the Governor's Regulatory Review Council or the Attorney General for approval ([A.R.S. § 41-1024](#)).

An agency generally cannot increase a fee by an amount that exceeds the percent change in the average Consumer Price Index between the latest calendar year and the calendar year when the last fee increase occurred. The only exceptions are if the agency either submits the fee increase to JLBC for review before the fee is increased or if the agency is required to submit an annual report that includes information about this fee to the Legislature ([A.R.S. § 41-1008](#)).

Provisions

Water Quality Fee Fund

1. Repeals the specific uses for Water Quality Fee Fund monies and instead requires these monies to be used for:
 - a) various water quality regulatory programs; and
 - b) ADEQ's oversight of:
 - i. sanitary engineering facilities and projects;
 - ii. subdivision water supplies, sewage disposal and garbage collection;
 - iii. efforts to prevent pollution in public or semi-public swimming pools or bathing places; and
 - iv. sewage management and reclamation. (Sec. 2)
2. Exempts fund monies from being used for the Brownfields Cleanup Revolving Loan Fund Program and the Water Quality Assurance Revolving Fund. (Sec. 2)

Authority to Set Fees

3. Repeals provisions:
 - a) limiting ADEQ to establishing various fees for aquifer protection permits, the annual registration fee for aquifer protection permits and fees for the Arizona Pollutant Discharge Elimination System Program once after July 29, 2010; and
 - b) forbidding ADEQ from increasing these fees without specific statutory authority. (Sec. 3-5)
4. Directs ADEQ to adopt fees to pay for the Aquifer Protection Permit Program and Arizona Pollutant Discharge Elimination System Program expenses. (Sec. 3 and 5)

Miscellaneous

5. Makes technical and conforming changes. (Sec. 1, 3, 5)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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