



OIL & GAS CONSERVATION COMMISSION  
Meeting: January 20, 1989  
Daniel J. Brennan, Exec. Director





## Oil and Gas Conservation Commission

STATE OF ARIZONA

3110 N. 19th AVENUE, SUITE 190

PHOENIX, ARIZONA 85015

PHONE: (602) 255-5161

(Revised Agenda)

January 10, 1989

### NOTICE OF COMBINED PUBLIC MEETING AND EXECUTIVE SESSION OF OIL AND GAS CONSERVATION COMMISSION

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Oil and Gas Conservation Commission and to the general public that the Oil and Gas Conservation Commission will hold a meeting open to the public on January 20, 1989 at 10:00 A.M. at 3110 North 19th Avenue, Suite 190, Phoenix, Arizona 85015. As indicated in the agenda, the Oil and Gas Conservation Commission may vote to go into executive session which will not be open to the public to discuss certain matters.

The agenda for the meeting is as follows:

1. Call to Order
2. Approval of Minutes of Meeting and of the Executive Session of November 18, 1988
3. Report of Executive Director
4. Report of Oil and Gas Specialist
5. Possible Interstate Oil Compact Commission Meeting in Arizona in 1990
6. Gas Storage Facilities at Glendale and Adamana
7. Motion to authorize Executive Director to act on behalf of the Commissioners
8. Executive Session Agenda. Consult with the Commission's Attorney on Lawsuit Cam-Roy Research Corporation vs. Oil and Gas Conservation Commission of the State of Arizona and instruct him on how the Commission wishes him to proceed in the lawsuit.
9. Legislation which may affect Oil and Gas Conservation Commission
10. Relations between the Oil and Gas Conservation Commission and Indian Tribes
11. Commission Budgets, Fees, and Taxes
12. Announcements
13. Adjournment

The Oil and Gas Conservation Commission may vote to go into executive session (pursuant to A.R.S. § 38-431.03.A.3) which will not be open to the public to consult with its attorney and receive legal advice with respect to any regular agenda item listed on this agenda.

The Oil and Gas Conservation Commission may vote to go into executive session (pursuant to A.R.S. § 38-431.03.A.4) which will not be open to the public to consult with its attorney and instruct him on how to proceed with regard to a lawsuit.

The public will be afforded an opportunity to comment on any item on the agenda; however, at the beginning of the meeting, the Commission may vote to set a time limit on individual comments.

DATED THIS 10th day of January 1989.

OIL AND GAS CONSERVATION COMMISSION

Daniel J. Brennan  
Executive Director

IF YOU ARE UNABLE TO ATTEND THIS MEETING,  
PLEASE NOTIFY THIS OFFICE AS SOON AS POSSIBLE.



**Oil and Gas Conservation Commission**

STATE OF ARIZONA

3110 N. 19th AVENUE, SUITE 190

PHOENIX, ARIZONA 85015

PHONE: (602) 255-5161

January 6, 1989

NOTICE OF COMBINED PUBLIC MEETING  
AND EXECUTIVE SESSION OF  
OIL AND GAS CONSERVATION COMMISSION

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6. Gas Storage Facilities at Glendale and Adamana
7. Motion to authorize Executive Director to act on behalf of the Commissioners
8. Cam-Roy Power Ranch Wells and Lawsuit
9. Legislation which may affect Oil and Gas Conservation Commission
10. Relations between the Oil and Gas Conservation Commission and Indian Tribes
11. Commission Budgets, Fees, and Taxes
12. Adjournment

The Oil and Gas Conservation Commission may vote to go into executive session (pursuant to A.R.S. § 38-431.03.A.3) which will not be open to the public to consult with its attorney and receive legal advice or to instruct its attorney with respect to any regular agenda item listed on this agenda.

The public will be afforded an opportunity to comment on any item on the agenda; however, at the beginning of the meeting, the Commission may vote to set a time limit on individual comments.

DATED THIS 6th day of January 1989.

OIL AND GAS CONSERVATION COMMISSION

Daniel J. Brennan  
Executive Director

IF YOU ARE UNABLE TO ATTEND THIS MEETING,  
PLEASE NOTIFY THIS OFFICE AS SOON AS POSSIBLE.

OIL AND GAS CONSERVATION COMMISSION  
3110 North 19th Avenue, Suite 190  
Phoenix, Arizona 85015

Minutes of Meeting  
November 18, 1988

Present:

Dr. J. Dale Nations, Chairman  
Mrs. Jan C. Wilt, Vice-Chairman  
Mr. A. R. Bennett, Member  
Mrs. Mary Ann Niccoli, Member  
Mr. J. E. Warne, Jr., Member  
Dr. Daniel J. Brennan, Executive Director  
Mr. Steven L. Rauzi, Oil and Gas Specialist

The regular Commission Meeting of November 18, 1988 was called to order by Dr. J. Dale Nations, Chairman, at 10:00 A.M. in the Commission's office.

APPROVAL OF MINUTES OF MEETING OF JULY 14, 1988

Mr. Warne moved, seconded by Mr. Bennett:

THAT THE MINUTES OF THE REGULAR MEETING OF  
JULY 14, 1988 BE ACCEPTED AS PRESENTED.

Motion carried unanimously.

INTRODUCTION OF NEW STAFF MEMBER

Dr. Brennan introduced Steven L. Rauzi to the Commissioners. He is the new Oil and Gas Specialist.

REPORT OF THE EXECUTIVE DIRECTOR

The Activity Report of Dr. Brennan was sent to the Commissioners, and has been made a part of these minutes. Dr. Brennan outlined the activity involved in a blow out of Cal Gas Corporation on October 11, 1988. After approximately 15 days on the job, Dr. Brennan advised that the well was finally plugged. Chuska Energy Company is planning to re-enter and test three shut-in gas wells in the Black Rock area in Apache county. This is under contract with the Navajo Tribe, and if they can't be completed, they will be plugged. There is a possibility of a fourth well being drilled. Dr. Brennan reported he has started writing letters to companies which incorporate in Arizona doing business in oil, gas, helium or geothermal exploration to invite them to contact the Commission if assistance is required especially involving the many laws in the business. Copies of reprints of the article in the Four Corners Oil and Gas Developments of 1987 were given

to the Commissioners. Dr. Brennan reported on two wells formerly permitted to Southwest Salt Company and taken over by Morton Salt Company which need to be plugged. They are located near the Cal Gas operation. The EPA does not have authority over these wells, and it is up to the Oil and Gas Conservation Commission to get the injection wells plugged. Morton Salt will incur a big expense in plugging the wells. Bonding is provided for this endeavor. Dr. Brennan is to speak at the Litchfield Chamber of Commerce next month at the request of Cal Gas Corporation. He spoke at the Luke School regarding the concern of the Cal Gas wells.

John Haas of the Bureau of Land Management advised that the Federal Government is required to offer all lands on a competitive basis. Exxon had 21 offers of noncompetitive leases in the Fredonia area, and Shields Exploration got two parcels in the same locale. Another parcel was in the White Tanks' area and one out of Kingman. Mr. Haas explained that lands put up for competitive sale are leases which have terminated and the annual rental has not been paid. If a lease has expired, this means there has been no production in a ten-year period. These lands must be offered for sale. If lands are relinquished, that is if part of the acreage is removed within the lease, those lands must be offered on a competitive sale. Cancelled leases must be offered for a land sale. The Bureau can put up its own parcels if it wishes or if someone expressed an interest, the Bureau could offer the land. On a competitive sale, the lease is for five years; on a noncompetitive basis, there is a two-year window to be picked up. The term is for ten years. Mr. Haas also stated that he received an advance request from Jay Shields to drill to 11,000' in the Spring of '89.

Dr. Nations reported that there is a possibility that Mitch Reynolds may give a talk to the Commission relative to the oil and gas potential in Arizona, and he will pursue this contact.

CONSIDERATION OF BUDGET REQUEST FOR FY 1990

After a detailed explanation by Dr. Brennan for increases in the budget for FY 1990, Mrs. Wilt moved, seconded by Mr. Warner:

THAT THE BUDGET REQUEST FOR FY 1990 BE ACCEPTED.

Motion carried unanimously.

MOTION TO AUTHORIZE EXECUTIVE DIRECTOR TO ACT ON BEHALF OF  
THE COMMISSIONERS

Our legal counsel, Sheldon Muller, suggested that it should be

on record that the executive director is authorized to act on behalf of the Commission. A motion was requested by Dr. Brennan to this effect. Mr. Muller gave an explanation of this request. After a lengthy discussion, it was decided to table this matter until the next meeting. Mr. Muller and Dr. Brennan were asked to bring a revised recommendation to the next meeting. Mrs. Wilt expressed a desire to see a comparison with other agencies regarding authority for the directors. Copies of the rules and laws of the Commission are to be sent to the Commissioners.

LEGISLATION WHICH MAY AFFECT OIL AND GAS CONSERVATION COMMISSION

Dr. Brennan advised that Senator Todd has agreed to sponsor a bill for the Commission. The Legislative Council drew up a bill to allow the Commission to accept gifts and donations of materials to enhance our library. We will be permitted to make agreements with other government agencies, state and Federal, and with Indian tribes to enforce the oil, gas and geothermal laws. Copies of this drafted bill are to be sent to the Commissioners.

Mr. Haas reported that the BLM had issued ten geothermal leases to Union Oil of California (Unocal). Recently Unocal made an application for another 11,000 acres in the San Francisco Peaks' area concerning the geothermal potential. Bradco Oil also requested four geothermal applications in the Yuma area. Mr. Haas stated that Trans Am Energy, gas brokers, in Tulsa made application for a sodium prospecting permit application. This is in the Red Lake Salt Cavern Gas Storage Project located approximately 35 miles north of Kingman. It is the intent to create gas storage reservoirs in this area which would necessitate a gas pipeline to transport gas to the storage area or railroad. A water line would be needed from Lake Mead to put the salt into the solution. The gas which would be purchased would hook into the El Paso Natural Gas pipeline.

Mrs. Wilt moved, seconded by Mrs. Niccoli:

THAT THE COMMISSION GO INTO EXECUTIVE SESSION.

Motion carried unanimously. When the meeting reconvenes, it will be open again to the public.

At 12:12 P.M., the Regular Meeting resumed with all the Commissioners present as well as Dr. Brennan, Mr. Rauzi and Mr. Muller.

Mrs. Wilt moved, seconded by Mr. Bennett:

THAT THE MINUTES OF THE EXECUTIVE SESSION OF JULY 14, 1988 BE AMENDED AS DISCUSSED IN THE EXECUTIVE SESSION OF NOVEMBER 18, 1988.

Motion carried unanimously.

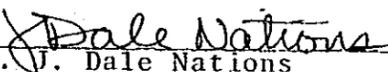
The next meeting is scheduled for January 20, 1989.

Mr. Bennett moved, seconded by Mr. Warne:

THAT THE MEETING BE ADJOURNED.

Motion carried unanimously. Time of adjournment was 12:20 P.M.

APPROVED

  
Dr. J. Dale Nations  
Chairman

GUESTS IN ATTENDANCE:

John Haas  
Sheldon Muller  
Steve Powers

Bureau of Land Management  
Attorney General's Office  
State Land Department



**Oil and Gas Conservation Commission**

STATE OF ARIZONA

3110 N. 19th AVENUE, SUITE 190

PHOENIX, ARIZONA 85015

PHONE: (602) 255-5161

January 6, 1989

ACTIVITY REPORT

Daniel J. Brennan  
Executive Director

A handwritten signature in dark ink, appearing to read "D. Brennan", written over the typed name.

Since your last meeting, my principal activity has been work on the ongoing study of the Yuma area. My abstract was accepted by the American Association of Petroleum Geologists for presentation at its annual convention in San Antonio in April. The presentation will be in a "Poster Session."

In connection with the Yuma study, I made a trip to Midland, Texas and was able to review, but not copy or remove, a wealth of seismic and other information, which is otherwise not public information. It will be of great assistance in fleshing out my study.

We inspected the storage facility at Adamana in November. Since our last visit, they had dismantled the gas/water separator and flare located at their brine storage pits. Since a flare is required by rule, we informed the operator that it is necessary to replace both the separator and flare. We should have a further report in time for your meeting.

We are working with Morton Salt's engineers to design a satisfactory plugging program for two old salt wells located at their facility in Glendale. While we would not be the permitting agency these days, the two wells are under our jurisdiction due to an action by Governor Williams years ago. Once we get them plugged, we will be out of the salt mining business.

I went to a breakfast meeting of the Tri-City Chamber of Commerce (Litchfield Park Area) to answer questions regarding the Cal Gas facility in that area.



**Oil and Gas Conservation Commission**  
STATE OF ARIZONA

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ACTIVITY REPORT

January 5, 1989

Steve Rauzi *SR*  
Oil & Gas Specialist

On November 30, we conducted a semi-annual inspection of the gas storage facility at Adamana. Essentially all warning lights, alarms, and safety features were in good working condition. One faulty warning switch was noted. David Jones, field supervisor, indicated it would be promptly replaced.

The Cal Gas Roach-Baker #1A well is in progress. In mid-December we witnessed the cementing of a 30" surface pipe to about 40'. On January 4, we witnessed the cementing of 26" casing to about 180'. In both cases, good cement returns were observed at the surface. The contractor estimates about 40 days to complete this well.

In regards to enhancing the exploration for oil and gas in Arizona, I have started construction of a subcrop map of the Precambrian Supergroup underlying the Arizona Strip area. The subcrop map will build on the reported source rock potential of the supergroup as discussed in USGS Circular 1025. We intend to publish the map as an open file report.

AGENCY OIL & GAS CONSERVATION COMMISSION

DIVISION \_\_\_\_\_ IDENTIFICATION CODE NO. \_\_\_\_\_

1		2		3		4	
CLAIMS PAID YEAR TO DATE 1988-1989		OBJECT CODE NO.	DISTRIBUTION OF EXPENDITURES CLASSIFICATION		CLAIMS PAID MONTH OF Dec. 1988		
31,530	94	6011	1	Salaries: Staff	1	5,154 01	
23,698	82	6057	2	Appointed Official	2	3,917 16	
180	00	6058	3	Commission Members	3	60 00	
		6081	4	Temporary Help	4		
			5		5		
3,830	15	6111	6	Emp. Related: F.I.C.A.	6	415 98	
3,265	47	6113	7	Health Insurance	7	597 96	
27	30	6115	8	D&L Insurance	8	5 60	
110	54	6117	9	Unemployment Insurance	9	18 16	
169	34	6118	10	Dental Insurance	10	31 16	
362	40	6119	11	Workmen's Comp	11	59 35	
1,544	22	6155	12	Retirement	12	461 71	
409	99	6183	13	Personnel	13	67 56	
			14		14		
		6293	15	Prof. Serv.: Court Reporter	15		
		6499	16	Cartographic Symbols	16		
		6499	17	Cartographer	17		
			18		18		
		6511	19	Travel-State: Air Fare	19		
4	34	6531	20	Taxi; parking	20		
528	20	6541	21	Mileage-Private Vehicles	21	21 12	
1,295	92	6551	22	Mileage-State Vehicles	22	268 44	
409	27	6582	23	Lodging	23	78 84	
326	00	6583	24	Per Diem	24	50 00	
4	31	6595	25	Telephone	25		
		6598	26	Travel Advance	26		
		6599	27	Other	27		
			28		28		
276	00	6611	29	Travel-Out of State: Air Fare	29	276 00	
41	00	6631	30	Taxi; rail	30	41 00	
		6639	31	Other (Public transport.)	31		
		6641	32	Personal Auto	32		
294	78	6682	33	Lodging	33	294 78	
137	00	6683	34	Per Diem	34	137 00	
17	85	6695	35	Telephone	35	17 85	
		6698	36	Travel Advance	36		
160	00	6699	37	Other	37	160 00	
85	01	6621	38	Car Rental	38	85 01	
		7019	39	Other Operating: Other (Advertising)	39		
149	10	7036	40	Postage	40		
492	00	7044	41	Telephone: ATS Services	41		
320	49	7045	42	Line Costs	42		
		7046	43	Station Equipment	43		
110	34	7047	44	Long Distance	44		
185	67	7048	45	Other	45		
		7049	46	Communication: Other	46		
			47		47		
2,127	00	7066	48	Risk Management	48		
			49		49		
8,162	55	7103	50	Office Rent	50	4,387 10	
		7108	51	Storage Rent	51		
			52		52		
		7311	53	Printing	53		
		7313	54	Binding	54		
		7315	55	Quick Copy	55		
			TOTAL				

AGENCY OIL AND GAS CONSERVATION COMMISSION

DIVISION \_\_\_\_\_ IDENTIFICATION CODE NO. \_\_\_\_\_

1		2		3		4	
CLAIMS PAID YEAR TO DATE 1988-1989		OBJECT CODE NO.	DISTRIBUTION OF EXPENDITURES			CLAIMS PAID MONTH OF DEC-1988	
			CLASSIFICATION				
		7532	1 Furniture (Maintenance Noncontract)		1		
		7532	2 Adder/Calculator (Maintenance Noncontract)		2		
		7532	3 Reader/Printer (Maintenance Noncontract)		3		
		7539	4 Other (Repair and Maintenance)		4		
46	00	7553	5 Typewriter (Maintenance Contract)		5		
88	82	7553	6 Copy Machine (Maintenance Contract)		6		
			7		7		
		7581	8 Data Processing - Magnetic Media		8		
		7582	9 Data Processing - Paper		9		
14	40	7583	10 Data Processing - Other		10		
122	75	7586	11 Drafting Supplies		11	87	21
		7595	12 Field Supplies		12		
			13		13		
6	40	7621	14 Stationery & Envelopes		14		
		7624	15 Reproduction Supplies		15		
363	83	7625	16 Office Supplies		16	93	39
			17		17		
36	28	7655	18 Tires		18		
		7659	19 Vehicle - other supplies		19	36	28
		7962	20 Revolving Fund		20		
106	20	7967	21 Books		21		
3,034	00	7971	22 Organization Dues		22		
		7973	23 Education and Training		23		
		7975	24 Registration Fees		24		
			25		25		
400	00	7980	26 Computer Software		26		
			27		27		
		7985	28 Freight and Moving		28		
			29		29		
32	50	7997	30 Subscription; Newspaper		30		
		7997	31 Technical Journal		31		
		7999	32 Other		32		
			33		33		
		8342	34 Library and Reference Books		34		
		8344	35 Law Books		35		
			36		36		
		8410	37 Data Processing Equipment		37		
			38		38		
		8483	39 Office Furniture and Equipment		39		
			40		40		
318	40	6542	41 Airplane (non-pub)		41		
268	71	6522	42 Airplane rental		42		
			43		43		
29	00	7039	44 Postage - Other		44	29	00
			45		45		
5	45	7689	46 Highway - Other		46		
			47		47		
			48		48		
			49		49		
			50		50		
			51		51		
			52		52		
			53		53		
			54		54		
			55		55		
86,129	24		TOTAL			13,852	17

**MONTHLY FINANCIAL REPORT**

1 RECEIPTS MONTH OF DEC. 1988	2 RECEIPTS CLASSIFICATION	4 APPROPRIATED RECEIPTS	5 UNAPPROPRIATED RECEIPTS	5 TOTAL ALL RECEIPTS YEAR TO DATE
	1 Permits to Drill			4,327 00
	2			
	3			
	4			
	5			
	6			
	7			
	8			
	9			
	10			
	11			
	12			
	13			
	14			
	15			
	16			
	17			
	TOTAL CURRENT MONTH RECEIPTS			XXXXXX
	TRANSFERS IN			
XXXXXX	BALANCES BROUGHT FORWARD	4,327 00		XXXXXX
	<b>TOTALS - MONTH AND YEAR TO DATE</b>	4,327 00		

6 CLAIMS PAID MONTH OF DEC. 1988	7 EXPENDITURES FUND TITLES	8 TOTAL AMOUNT AVAILABLE YEAR TO DATE	9 CLAIMS PAID YEAR TO DATE	10 OUTSTANDING ENCUMBRANCES	11 UNENCUMBERED BALANCE
9,131 17	1 Personal Services	123,300 00	53,409 76		67,890 24
1,657 48	2 Emp. Related Exp.	25,700 00	10,719 41		14,980 59
	3 Professional Services	400 00			400 00
418 40	4 Travel - State	7,100 00	3,155 15		3,944 85
1,011 64	5 Travel - Out of State	2,500 00	1,011 64		1,488 36
1,633 48	6 Other Operating Exp.	29,100 00	15,833 28		13,266 72
	7 Capital Outlay-Equipment	1,500 00			1,500 00
	8				
	9				
	10				
	11				
	12				
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	30				
13,852 17	<b>TOTALS</b>	189,600 00	86,129 24		103,470 76



REFERENCE TITLE: oil, gas and geothermal; enforcement

State of Arizona  
Senate  
Thirty-ninth Legislature  
First Regular Session  
1989

S. B. 1044

Introduced by Senator Todd

AN ACT

RELATING TO MINERALS, OIL AND GAS; PRESCRIBING AUTHORITY OF OIL AND GAS CONSERVATION COMMISSION TO ENTER INTO COOPERATIVE AGREEMENTS AND ACCEPT DONATIONS OF PUBLIC RECORDS; PROVIDING FOR BOND FOR OWNERSHIP, OPERATION OR CONVEYANCE OF GEOTHERMAL WELL; PRESCRIBING PROCEDURES FOR ADOPTING, MODIFYING, RENEWING OR EXTENDING GEOTHERMAL RULES; PRESCRIBING NOTICE REQUIREMENTS FOR CONVEYANCE OF GEOTHERMAL WELLS; PRESCRIBING GEOTHERMAL ENFORCEMENT POWERS AND APPEALS RIGHTS; PRESCRIBING CIVIL PENALTIES; PRESCRIBING DEFINITION AND CLASSIFICATION OF CRIMINAL OFFENSES; AMENDING SECTIONS 27-515, 27-654, 27-656 AND 27-658, ARIZONA REVISED STATUTES, AND AMENDING TITLE 27, CHAPTER 4, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 27-676 THROUGH 27-679.

- 1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 27-515, Arizona Revised Statutes, is amended to  
3 read:  
4 27-515. Powers and duties of commission; fees;  
5 compensation of personnel; executive director;  
6 publication revolving fund  
7 A. The commission shall have jurisdiction and authority over all  
8 persons and property deemed necessary to administer and enforce the  
9 provisions of this article and other laws relating to conservation of oil  
10 and gas. The commission or its representative or employee may, at any  
11 time, enter upon property and inspect wells drilled for oil or gas, and  
12 well records, and shall control property, machinery and appliances  
13 necessary to gauge the wells.  
14 B. The commission may employ personnel necessary to enforce this  
15 article. The commission may:

1 1. Administer oaths to a witness in any hearing, investigation or  
2 proceeding held under this article or other law relating to conservation  
3 of oil and gas.

4 2. Issue subpoenas requiring attendance and testimony of witnesses  
5 and production of books, papers and records deemed material or necessary,  
6 and direct service of subpoenas by a sheriff or other officer authorized  
7 by law to serve process.

8 3. Prescribe rules and do all acts necessary or advisable to carry  
9 out the provisions of this article.

10 4. Collect such fees as will cover the costs of such services as,  
11 but not limited to, reproduction of records or any portion thereof and  
12 copies of rules. The monies so collected shall not be subject to the  
13 provisions of section 27-523, but shall be transmitted by the commission  
14 to the state treasurer for deposit in the fund from which the expenditure  
15 was originally made.

16 5. Publish, in cooperation with the resource analysis division of  
17 the state land department, technical maps, cross sections and reports and  
18 sell these materials for such fees as will cover the costs incurred in  
19 their preparation, reproduction and distribution.

20 C. The commission may enter into cooperative agreements with  
21 agencies of the United States government, WITH AGENCIES OF STATE OR LOCAL  
22 GOVERNMENT OR WITH INDIAN TRIBES for the purpose of protection of the  
23 fresh water supplies of the state from contamination or pollution brought  
24 about by the drilling of any well OR FOR ANY OTHER PURPOSE OF THIS  
25 ARTICLE.

26 D. THE COMMISSION MAY ACCEPT GIFTS, DEVICES AND DONATIONS OF BOOKS,  
27 WELL RECORDS, MAPS OR OTHER MATERIALS WHICH SHALL BECOME PUBLIC RECORDS OF  
28 THE COMMISSION TO FURTHER THE PURPOSES OF THIS ARTICLE.

29 ~~B~~ E. Personnel employed under the provisions of this article  
30 shall receive compensation as determined pursuant to section 38-611.

31 ~~E~~ F. The commission may appoint an executive director who may,  
32 pursuant to and as authorized by order of the commission, act on behalf of  
33 the commission.

34 ~~F~~ G. Monies collected under subsection B, paragraph 5 of this  
35 section shall be deposited in the oil and gas conservation commission  
36 publication revolving fund and used to prepare, reproduce and distribute  
37 further publications. Monies in the publication revolving fund are not  
38 subject to section 27-523 and are exempt from section 35-190, relating to  
39 lapsing of appropriations, except all monies in the revolving fund  
40 exceeding five thousand dollars shall revert to the state general fund.

41 Sec. 2. Section 27-654, Arizona Revised Statutes, is amended to  
42 read:

43 27-654. Drilling bond; amount

44 The commission shall require that every person who engages in the  
45 drilling, OWNERSHIP OR OPERATION of a well, or the entering or deepening  
46 of an abandoned well, shall file with the commission, on a form to be  
47 determined by the commission, a reasonable bond with good and sufficient  
48 security conditioned upon the performance of the duties required by this

1 section and the abandonment, as approved by the commission, of such well  
2 in an amount to be determined by the commission, but in no case may the  
3 bond be less than five thousand dollars for each individual well or less  
4 than twenty-five thousand dollars for any number of wells. Such bond  
5 shall remain in full force and effect until all requirements of the  
6 commission have been satisfied or until otherwise released by the  
7 commission.

8 Sec. 3. Section 27-656, Arizona Revised Statutes, is amended to  
9 read:

10 27-656. Rules; hearing

11 A. The commission shall promulgate ADOPT rules and regulations  
12 necessary for the proper administration and enforcement of this article.

13 B. IN THE ABSENCE OF AN EMERGENCY, THE COMMISSION SHALL COMPLY WITH  
14 TITLE 41, CHAPTER 6 IN ADOPTING, MODIFYING, RENEWING OR EXTENDING RULES  
15 UNDER THIS ARTICLE, UNLESS OTHERWISE PROVIDED BY THIS ARTICLE.

16 ~~B. C.~~ C. No rule, regulation or order, or change, renewal or  
17 extension thereof, except as otherwise provided by this article, shall, in  
18 the absence of an emergency, be made by the commission under the  
19 provisions of this article except after a public hearing of which not less  
20 than ten days' notice has been given. The public hearing shall be held at  
21 such time and place as may be prescribed by the commission and any  
22 interested person shall be entitled to be heard. Notice shall be given by  
23 personal service, by publication, or by United States mail, addressed,  
24 postage prepaid, to the last known mailing address of the person or  
25 persons affected. The date of service shall be the date on which service  
26 was made in the case of personal service, the date of first publication in  
27 the case of notice by publication, and the date of mailing in the case of  
28 notice by mailing. The notice shall issue in the name of the state, and  
29 shall be signed by a member of the commission or its deputy, shall specify  
30 the style and number of the proceeding, the time and place of the hearing,  
31 and shall state briefly the purpose of the proceeding. If the commission  
32 elects to give notice by personal service, such service may be made by an  
33 officer or process server authorized to serve process, or by the  
34 commission, in the same manner as is provided by law for the service of  
35 process in civil actions in the courts of this state. Proof of service by  
36 the commission shall be by the affidavit of the commission or its  
37 authorized representative making personal service. Where service is made  
38 by an officer or process server authorized to serve process, the proof of  
39 service shall be as required by law for service of process in civil  
40 actions. If the matter to be heard concerns the adoption, amendment or  
41 repeal of a regulation RULE of general applicability, notice shall be by  
42 publication.

43 ~~E.~~ D. If an emergency is found by the commission to exist which,  
44 in its judgment, requires making, changing, renewing or extending a rule,  
45 regulation or order without first having a hearing, the emergency rule,  
46 regulation or order shall have the same validity as if a hearing had been  
47 held after due notice. The emergency rule, regulation, or order shall  
48 remain in force FOR not to exceed thirty days from its effective date, but

1 in any event shall expire when a rule, ~~regulation~~ or order with respect to  
2 the subject matter of the emergency rule, ~~regulation~~ or order becomes  
3 effective after due notice and hearing.

4 Sec. 4. Section 27-658, Arizona Revised Statutes, is amended to  
5 read:

6 27-658. Notice of sale or conveyance of well or land

7 A. The owner or operator of any well shall notify the commission in  
8 writing on such form as the commission may direct of the sale, assignment,  
9 transfer or conveyance or exchange by the owner or operator of such well  
10 and the land owned or leased upon which the well is located within ten  
11 days following such sale, assignment, transfer, conveyance or exchange.  
12 The notice shall contain:

13 1. The name and address of the person to whom such well was sold,  
14 assigned, transferred, conveyed or exchanged.

15 2. The name and location of the well.

16 3. The date of the sale, assignment, transfer, conveyance or  
17 exchange.

18 B. Every person who acquires ownership or operation of any well,  
19 whether by purchase, assignment, transfer, conveyance, exchange or  
20 otherwise, shall, within ten days after acquiring the well ~~on land owned~~  
21 ~~or leased upon which it is located~~, notify the commission in writing of  
22 his ownership or operation AND PROVIDE A BOND AS REQUIRED BY SECTION  
23 27-654. The notice shall contain:

24 1. The name and address of the person from whom the well was  
25 acquired.

26 2. The name and location of the well.

27 3. The date of acquisition.

28 4. The date when operations are assumed or resumed by THE new  
29 owner.

30 Sec. 5. Title 27, chapter 4, article 4, Arizona Revised Statutes,  
31 is amended by adding sections 27-676 through 27-679, to read:

32 27-676. Enjoining violations

33 A. IF IT APPEARS THAT A PERSON IS VIOLATING OR THREATENING TO  
34 VIOLATE ANY PROVISION OF THIS ARTICLE, OR A RULE OR ORDER MADE PURSUANT TO  
35 THIS ARTICLE, AND THE PERSON FAILS OR REFUSES, ON NOTICE BY THE  
36 COMMISSIONER, TO DESIST FROM THE VIOLATION OR THREAT OF VIOLATION, THE  
37 COMMISSIONER MAY BRING AN ACTION IN SUPERIOR COURT IN THE COUNTY WHERE THE  
38 OFFENDING PERSON RESIDES, OR IN THE COUNTY IN WHICH THE VIOLATION IS  
39 ALLEGED TO HAVE OCCURED OR IS THREATENED, TO RESTRAIN THE PERSON FROM  
40 CONTINUING THE VIOLATION OR FROM CARRYING OUT A THREAT OF VIOLATION.

41 B. THE COMMISSIONER MAY OBTAIN WITHOUT BOND A PROHIBITORY OR  
42 MANDATORY INJUNCTION, A TEMPORARY RESTRAINING ORDER OR A PRELIMINARY  
43 INJUNCTION AND, IF APPROPRIATE, AN INJUNCTION RESTRAINING THE DEFENDANT  
44 FROM MOVING OR DISPOSING OF AN ILLEGAL PRODUCT. ON FILING THE ACTION,  
45 SUMMONS DIRECTED TO SUCH PERSON MAY BE DELIVERED TO THE SHERIFF OF ANY  
46 COUNTY IN THIS STATE FOR SERVICE.

47 C. IF THE COMMISSIONER FAILS TO BRING AN ACTION WITHIN TEN DAYS TO  
48 ENJOIN A THREATENED OR ACTUAL VIOLATION OF ANY STATUTE RELATING TO

1 CONSERVAITON OF GEOTHERMAL ENERGY, OR OF ANY PROVISION OF THIS ARTICLE, OR  
2 A RULE OR ORDER MADE PURSUANT TO THIS ARTICLE, ANY PERSON OR PARTY IN  
3 INTEREST WHO IS ADVERSELY AFFECTED BY THE THREATENED OR ACTUAL VIOLATION  
4 AND WHO HAS NOTIFIED THE COMMISSIONER IN WRITING AND REQUESTED THE  
5 COMMISSIONER TO FILE THE ACTION MAY BRING THE ACTION IN THE SUPERIOR COURT  
6 IN ANY COUNTY IN WHICH THE COMMISSIONER MIGHT HAVE BROUGHT THE ACTION TO  
7 PREVENT THE THREATENED OR ACTUAL VIOLATION. THE COMMISSIONER SHALL BE  
8 MADE A PART TO THE ACTION.

9 D. IF THE COURT ORDERS THAT INJUNCTIVE RELIEF BE GRANTED, THE  
10 COMMISSIONER SHALL BE SUBSTITUTED FOR THE PERSON WHO BROUGHT THE ACTION,  
11 AND THE INJUNCTION SHALL ISSUE AS IF THE COMMISSIONER HAD AT ALL TIMES  
12 BEEN PLAINTIFF.

13 27-677. Enjoining enforcement prohibited

14 A. NO TEMPORARY RESTRAINING ORDER OR UNJUNCTION MAY BE GRANTED TO  
15 RESTRAIN THE COMMISSIONER OR HIS AGENT, EMPLOYEE OR REPRESENTATIVE FROM  
16 ENFORCING A STATUTE RELATING TO THE CONSERVATION OF GEOTHERMAL ENERGY OR  
17 ANY PROVISION OF THIS ARTICLE, OR RULE OR ORDER MADE UNDER THIS ARTICLE,  
18 EXCEPT AFTER NOTICE TO THE COMMISSIONER AND ALL OTHER DEFENDANTS AND A  
19 HEARING. AT THE HEARING A RESTRAINING ORDER OR INJUNCTION SHALL NOT BE  
20 GRANTED UNLESS IT IS SHOWN THAT THE ACT DONE OR THREATENED IS UNLAWFUL OR  
21 THAT THE STATUTE OR PROVISION OF THIS ARTICLE OR RULE OR ORDER COMPLAINED D  
22 OF IS INVALID AND, IF ENFORCED, WILL CAUSE IRREPARABLE INJURY TO THE  
23 PLAINTIFF. AN ORDER GRANTING TEMPORARY OR INJUNCTIVE RELIEF SHALL STATE  
24 THE NATURE AND EXTENT OF THE INVALIDITY OF THE STATUTE, RULE OR ORDER  
25 COMPLAINED OF AND SHALL CONTAIN A STATEMENT OF THE PROBABLE DAMAGE RELIED  
26 ON BY THE COURT AS JUSTIFYING TEMPORARY INJUNCTIVE RELIEF.

27 B. A TEMPORARY INJUNCTION OR RESTRAINING ORDER AGAINST THE  
28 COMMISSIONER, OR HIS AGENT, EMPLOYEE OR REPRESENTATIVE, DOES NOT BECOME  
29 EFFECTIVE UNTIL THE PLAINTIFF EXECUTES A BOND IN AN AMOUNT AND CONDITIONED  
30 AS THE COURT DIRECTS. THE BOND SHALL BE PAYABLE TO THE CLERK OF THE  
31 COURT, SHALL BE APPROVED BY THE JUDGE AND SHALL BE FOR THE USE AND BENEFIT  
32 OF ALL PERSONS WHO MAY BE INJURED BY THE ACTS DONE UNDER THE PROTECTION OF  
33 THE RESTRAINING ORDER OR INJUNCTION. ANY ACTION ON THE BOND BY ANY PERSON  
34 CLAIMING INJURY SHALL BE BROUGHT WITHIN SIX MONTHS AFTER THE DATE OF FINAL  
35 DETERMINATION OF THE VALIDITY OF ALL OR PART OF THE STATUTE, PROVISION OF  
36 THIS ARTICLE, RULE OR ORDER, THE ENFORCEMENT OF WHICH WAS RESTRAINED OR  
37 ENJOINED.

38 27-678. Appeals

39 IN AN ACTION BROUGHT UNDER THIS ARTICLE, OR AN ACTION WHICH INVOLVES  
40 ANY RULE OR ORDER MADE UNDER THIS ARTICLE, ANY PARTY TO THE ACTION HAS THE  
41 RIGHT TO APPEAL FROM THE SUPERIOR COURT TO THE SUPREME COURT AS PROVIDED  
42 BY LAW OR RULES OF COURT RELATING TO APPEALS IN CIVIL ACTIONS.

43 27-679. Violation; civil penalty; classification

44 A. A PERSON WHO VIOLATES ANY PROVISION OF THIS ARTICLE, OR ANY  
45 RULE OR ORDER OF THE COMMISSION, IS SUBJECT TO A CIVIL PENALTY OF NOT MORE  
46 THAN ONE THOUSAND DOLLARS FOR EACH VIOLATION AND FOR EACH DAY THE  
47 VIOLATION CONTINUES.

1 B. A PERSON WHO, WITH THE INTENT TO EVADE THIS ARTICLE, OR ANY RULE  
2 OR ORDER OF THE COMMISSION, KNOWINGLY MAKES OR CAUSES TO BE MADE A FALSE  
3 ENTRY IN ANY APPLICATION, REPORT, RECORD, ACCOUNT OR MEMORANDUM REQUIRED  
4 BY THIS ARTICLE OR BY ANY SUCH RULE OR ORDER, OR WHO KNOWINGLY OMITTS OR  
5 CAUSES TO BE OMITTED FROM ANY APPLICATION, REPORT, RECORD, ACCOUNT OR  
6 MEMORANDUM FULL, TRUE AND CORRECT ENTRIES AS REQUIRED BY THIS ARTICLE, OR  
7 BY THE RULE OR ORDER, OR WHO KNOWINGLY REMOVES FROM THIS STATE OR  
8 DESTROYS, MUTILATES, ALTERS OR FALSIFIES ANY SUCH APPLICATION, RECORD,  
9 ACCOUNT OR MEMORANDUM OR KNOWINGLY MAKES ANY FALSE STATEMENT TO THE  
10 COMMISSION OR ANY MEMBER, OFFICER OR EMPLOYEE OF THE COMMISSION CONCERNING  
11 ANY MATTER WITHIN THE JURISDICTION OF THE COMMISSION IS GUILTY OF A CLASS  
12 2 MISDEMEANOR.

13 C. THE PENALTIES PROVIDED IN THIS SECTION SHALL BE RECOVERABLE BY  
14 AN ACTION FILED BY THE ATTORNEY GENERAL, IN THE NAME AND ON BEHALF OF THIS  
15 STATE, IN SUPERIOR COURT IN THE COUNTY IN WHICH THE DEFENDANT RESIDES, OR  
16 IN WHICH ANY DEFENDANT RESIDES IF THERE IS MORE THAN ONE DEFENDANT, OR IN  
17 SUPERIOR COURT IN ANY COUNTY IN WHICH THE VIOLATION OCCURRED.

18 D. THE PAYMENT OF ANY PENALTY DOES NOT LEGALIZE SO THAT IT IS NO  
19 LONGER CONTRABAND ANY PRODUCT INVOLVED IN THE VIOLATION FOR WHICH THE  
20 PENALTY IS IMPOSED AND DOES NOT RELIEVE A PERSON ON WHOM THE PENALTY IS  
21 IMPOSED FROM LIABILITY TO ANY OTHER PERSON FOR DAMAGES ARISING OUT OF THE  
22 VIOLATION.

OFFICE OF THE ATTORNEY GENERAL

INTEROFFICE MEMORANDUM

January 19, 1989

TO: DAN BRENNAN, Executive Director  
Oil and Gas Conservation Commission

FROM: SHELDON H. MULLER *SHM*  
Assistant Attorney General

RE: A.R.S. § 27-515(E).

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Per your request, I have enclosed copies of statutes which show how the authority of executive directors, directors, etc. is set up with other boards and commissions. I have highlighted the pertinent portions of the statutes for your convenience. As you can see, some provisions are similar to yours, i.e., executive directors must be delegated their authority by the board or commission, whereas other statutes state specifically the authority of the director, executive director, etc.

I hope this will be of assistance to you and the Commission. If you have any other questions, please feel free to call me at your convenience.

SHM/clp  
0571a.79

## § 24-104. General powers and duties; civil penalties; violation; classification

## A. The board shall:

1. Exercise general supervision over the livestock interests of the state, protect the livestock industry from theft and the livestock and poultry industries from contagious and infectious diseases and protect the public from diseased and unwholesome meat products.
2. Recommend legislation fostering the livestock and poultry industries and advise the legislature with respect thereto.
3. Keep a permanent record of its proceedings.
4. Delegate duties to the director to administer and enforce this title.

## B. The board may, with the advice of the state veterinarian, make rules to control and govern:

1. Importation of animals and poultry into the state, establishment of quarantine and its boundaries, notice of quarantine and accomplishment of all things necessary to effect the object of the quarantine and to protect the livestock and poultry industries from and prevent the spread of contagious or infectious diseases.
2. Slaughter of animals and poultry affected with contagious or infectious diseases and disposition of carcasses of animals and poultry so slaughtered, when such action appears necessary to prevent the spread of contagion or infection among livestock and poultry.
3. Importation, manufacture, sale, distribution or use within the state of serums, vaccines and other biologics intended for diagnostic or therapeutic treatment of animals and poultry, and the importation, manufacture or use of virulent blood or living virus of diseases affecting animals and poultry.

## C. The board may:

1. Prescribe rules, pursuant to title 41, chapter 6,<sup>1</sup> in conformity with this title.
2. Contract and enter into interagency and intergovernmental agreements pursuant to title 11, chapter 7, article 3,<sup>2</sup> with any private party or public agency.
3. Enter into agreements with neighboring states including agreements regarding the use of livestock officers or livestock inspectors or other agency resources for the purpose of enforcement of livestock laws within this state or within border areas of neighboring states.

## D. The director may:

1. Waive inspections, service charges or inspection fees in cases he deems advisable.
2. Direct employees or peace officers to execute his orders.
3. Accept money donations from any public or private group, society, association or individual for deposit in the horse maintenance fund created by § 24-552.

## E. The director shall:

1. Employ staff and may terminate employment for cause as provided under title 41, chapter 4, article 5.<sup>3</sup>
2. Administer and enforce the rules prescribed by the board.

F. The board shall promulgate reasonable rules fixing and establishing the contents of processed meats and meat food products including the percentage of meats and nonmeat ingredients which may be contained in such processed meats, but the percentage of meats prescribed by the board to be contained in processed meats and meat food products shall not exceed the maximum percentages prescribed by the United States department of agriculture. Such rules shall prescribe that a processed meat product fabricated from two or more ingredients shall bear a list of the ingredients giving the common or usual names of the ingredients arranged in the order of their predominance. The regulation of meat and meat food products on the retail level shall be by the department of health

§ 24-104

LIVESTOCK AND ANIMALS

services in accordance with its rules adopted pursuant to § 36-136, subsection H, paragraphs 4 and 5. A person who violates any rule promulgated under this subsection is guilty of a class 3 misdemeanor.

G. The board may by rule prescribe conditions under which carcasses, parts of carcasses, meat and meat food products of any livestock, capable of use as human food, shall be stored or otherwise handled by any person, firm or corporation engaged in the business of buying, selling, freezing, storing or transporting such articles, whenever the board deems such action necessary to assure that such articles will not be adulterated or misbranded when delivered to the consumer.

H. The board may adopt by rule a self-inspection program for moving livestock from one location to another in this state if no change of ownership occurs. The director shall monitor compliance with the requirements of the self-inspection program and shall periodically examine self-inspection records. A person who knowingly violates the requirements of the self-inspection program shall be placed on administrative probation by the director for a period of one year. If a subsequent violation occurs during the period of probation, the person shall be brought before a hearing officer and is subject to a civil penalty of two hundred dollars per violation, and his self-inspection privileges shall be revoked for a period of three years. The board may review any order of the hearing officer and shall review each order involving subsequent violations during a period of probation, and may affirm, rescind or modify the order. The period of a sanction imposed under this subsection begins on the date of determination of the violation at a hearing. Civil penalties imposed under this subsection shall be deposited in the state general fund.

I. The director may establish a central investigation group to investigate reports of livestock theft. Livestock officers and other employees of the board shall report all cases of apparent livestock theft to the director. The investigation group shall cooperate and coordinate its activities with appropriate federal, state and local law enforcement agencies in apprehending and prosecuting violators of livestock laws.

Amended by Laws 1986, Ch. 8, § 2; Laws 1986, Ch. 169, § 5, eff. Aug. 13, 1986, retroactively effective to July 1, 1986; Laws 1986, Ch. 165, § 13.

<sup>1</sup> Section 41-1001 et seq.

<sup>2</sup> Section 11-951 et seq.

<sup>3</sup> Section 41-761 et seq.

Historical Note

For purpose of Laws 1986, Ch. 8, see Historical Note following § 36-136.

For retroactivity provision of Laws 1986, Ch. 169, see Historical Note following § 3-223.

The 1988 amendment, in subsec. A, deleted "and reports of inspectors and deputies" at the end of par. 3, and rewrote par. 4, which had read, "Assist in the prosecution of persons charged with violation of the livestock laws."; in subsec. B, substituted "rules" for "rules and regulations", and deleted par. 4, which had read, "Sale of livestock straying from its accustomed range."; in subsec. C, in par. 1, substituted "Prescribe rules, pursuant to title 41, chapter 6," for "Prescribe and enforce rules and regulations", and inserted new pars. 2 and 3; designated former subsecs. D to G as subsecs. F to I; in new subsec. D, added the words "The director may"; redesignated former subsec. C, pars. 2, 3 and 6 as subsec. D, pars. 1, 2 and 3, and substituted "employees" for "directors" in par. 2; deleted former subsec. C, pars. 4, 5 and 7, which had read:

"4. Authorize the director to waive inspection of livestock before slaughter pursuant to § 24-267, subsection E.

"5. Grant permission to transfer or sell hides of neat animals, horses, mules or asses without being tagged or marked, but such hides shall be inspected and the regular inspection fee paid prior to shipment or sale."

"7. Delegate duties to the director to administer and enforce this title and rules prescribed by the board."

The 1988 amendment also inserted a new subsec. E; deleted references to regulations; substituted "any livestock" for "cattle, sheep, swine, goats, horses, mules or other equines" in subsec. G; in subsec. H, substituted "livestock" for "neat animals" in the first sentence, "director" for "board" in the second sentence, "director" for "hearing officer" in the third sentence, and in the fourth sentence, inserted "shall be brought before a hearing officer and"; in subsec. I, substituted "officers" for "inspectors", and made nonsubstantive changes.

1986 Reviser's Note:

Prior to the 1988 amendment this section contained the amendments made by Laws 1986, Ch. 8, § 2 and Ch. 169, § 5 which were blended together pursuant to authority of § 41-1304.03.

LIVESTOCK AND ANIMALS

Cross References

Livestock inspection,  
Delivery of certificate, see § 24-  
Method, place and time, see § 24-

§ 24-104.02. Repealed by Laws

§ 24-105. Control of animal di-

A. When advised of the occurrence of a threat to the livestock or and adopt rules it deems necessary.

B. The state veterinarian may be and take custody of the presence of a contagious, infectious disease.

C. The director may direct the

1. Establish quarantines and

2. Destroy animals or poultry contaminated with a contagious or communicable disease.

3. Appoint appraisers for the destroyed.

4. Control the movement of agricultural products which may be the livestock or poultry industries.

D. Any person who violates any provision of subsection A, or breaks any quarantine, prevention and control of disease, is guilty of a class 3 misdemeanor.

Amended by Laws 1988, Ch. 165, § 13.

Historical Note

The 1988 amendment reorganized the titles of subsections, paragraphs, etc., and "rules" for "rules and regulations" and substituted "The state veterinarian may

§ 24-106. Suspension, revocation, appeal

A. Any license issued by the board shall be subject to suspension or revocation for noncompliance with:

1. Any provision of this title.

2. Any rule issued pursuant to

3. Any condition of the license

B. A license or agreement may be suspended or revoked by a civil penalty or other administrative action of a duly appointed hearing officer. The hearing officer shall conduct the hearing, subpoena witnesses, compel attendance of witnesses, administer oaths to witnesses and actions in the superior court. All these powers shall be dealt with in the hearing officer's report.

C. Decisions of the hearing officer shall be subject to judicial review.

Amended by Laws 1986, Ch. 169, § 5; Laws 1988, Ch. 165, § 15.

Section 12-651 et seq.

§ 23-108

Note 2

initiated measure to repeal Workmen's Compensation Law (Rev.Code 1928, § 1391 et seq.) on ballot and campaign to defeat measure was not approval formerly contemplated by statute. Id.

3. Compensation and expenses

In the case of Industrial Commission v. School Dist. No. 48 of Maricopa County (1941) 56 Ariz. 476, 108 P.2d 1004, the court said: "In other words, the attorney general was a source the commission could call upon for legal advice, or to bring and prosecute actions and proceedings in the courts of the state if and when the commission wanted or needed such help, and was, perhaps, the exclusive source until the legislature enacted Section 4-503, supra. Crane v. Frohmiller, 45 Ariz. 490, 45 P.2d 955. Since then, the commission has had and has exercised the power and authority to employ its own attorney and pay him for his services out of the state compensation fund as an incidental expense in the administration of such fund."

Administrative expenses of all departments of industrial commission are to be funded out of the assessment provided in § 23-961 requiring every insurance carrier writing workmen's compensation and occupational disease compensation insurance and the state compensation fund to pay a 3% premium tax to be credited to the administrative fund of the Industrial Commission. Op.Atty.Gen. No. 73-31-L.

Industrial commissioners or commission employees are not subject to travel expense allowances. Op.Atty.Gen. No. 63-56-L.

4. — Approval by governor, compensation and expenses

That employment and salary of an investigator, producing evidence that the employee did not have a loss of earning capacity attributable to his alleged injury, were not approved by the governor, would not affect the admissibility of the evidence. Scott v. Wasielewski (1961) 89 Ariz. 29, 357 P.2d 614.

§ 23-108.01. Duties of director

The director, under the supervision of the commission, shall administer the policies, powers and duties of the commission as prescribed by chapters 2 and 6 and article 2 of chapter 3 of this title.

Added by Laws 1968, 4th S.S., Ch. 6, § 9, eff. Jan. 2, 1969. Amended by Laws 1976, Ch. 162, § 84.

<sup>1</sup> Sections 23-101 et seq., 23-201 et seq., 23-901 et seq., 23-521 et seq.

Employees of the industrial commission whose employment and compensation had once been approved by the governor were entitled to be paid their salaries without submission by the commission of such employment and salaries to each incoming governor for his approval. Industrial Commission v. Hunt (1941) 57 Ariz. 76, 111 P.2d 67.

Where the governor approved the employment of persons by the industrial commission and the compensation fixed for their services as formerly provided under Code 1939, § 56-905 (see, now, this section), and men and women were employed under that approval and rendered services, neither the governor nor his successor had any power to stop their pay. McGinness v. Hunt (1941) 57 Ariz. 70, 111 P.2d 65.

Where the governor approved the employment of persons by the industrial commission and the compensation fixed for their services as formerly provided by Code 1939, § 56-905 (see, now, this section), the approval extended beyond his term into that of his successor and until changed by the concurrent action of the commission and the governor. Id.

Industrial commission's expenditure of money from state compensation fund to pay persons employed to assist in defeating initiated measure to repeal Workmen's Compensation Law, Rev.Code 1928, § 1391 et seq., without governor's approval of compensation, was formerly unlawful under Rev.Code 1928, § 1395 (see, now, this section). Sims v. Moeur (1933) 41 Ariz. 486, 19 P.2d 679.

Governor formerly under Rev.Code 1928, § 1395 (see, now, this section) in passing upon compensation to be paid by industrial commission to its employee, exercised discretion, and mandamus to compel fixing of compensation would not lie. Industrial Commission v. Price (1930) 37 Ariz. 245, 292 P. 1099.

Under Rev.Code 1928, § 1395 (see, now, this section) governor formerly had to approve of compensation of employees of industrial commission. Id.

LABOR  
Title 23

INDUSTRIAL  
Ch. 1

The 1976 amendments 1, 2 and 6 for "chapter 1,

§ 23-108.

A. The commission shall be su

B. The amount of the ad § 38-611.

Added by Law 1970, Ch. 204,

The 1970 amendments personnel comm system rules" in subsec. B, which

"The director compensation of the amount not to five hundred dollars officers in an amount of five thousand five hundred dollars hearing officers full-time basis."

The 1980 amendments to administrative hearings to hear Laws 1980, C

Hearing officer.

§ 23-108.

A. The industrial policy of the

B. Any provisions of chapters 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

1. Make

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§ 23-108.03

Historical Note

The 1976 amendment substituted "chapters 1, 2 and 6 and article 2 of chapter 3" for "chapters 1, 2, 3, 6 and 7". For intent of Laws 1976, Ch. 162, see Historical Note following § 3-443.

§ 23-108.02. Administrative law judges

A. The commission shall appoint administrative law judges of the commission who shall be members of the Arizona state bar and thereafter shall be subject to the state personnel commission.

B. The annual compensation of the chief administrative law judge and of the administrative law judges shall be as determined pursuant to § 38-611.

Added by Laws 1968, 4th S.S., Ch. 6, § 9, eff. Jan. 2, 1969. Amended by Laws 1970, Ch. 204, § 51; Laws 1980, Ch. 246, § 1.

Historical Note

The 1970 amendment substituted "state personnel commission" for "Arizona merit system rules" in subsec. A; and rewrote subsec. B, which had read:

"The director shall fix the annual compensation of the chief hearing officer in an amount not to exceed seventeen thousand five hundred dollars and of the hearing officers in an amount not to exceed sixteen thousand five hundred dollars each. All hearing officers shall be employed under a full-time basis."

The 1980 amendment substituted references to administrative law judges for references to hearing officers.

Laws 1980, Ch. 246, § 38 provides:

"Notwithstanding the provisions of this act, the legislature intends that if the provisions of title 41, chapter 20 [§ 41-2351 et seq.], Arizona Revised Statutes, operate to terminate an agency, any provisions regarding powers, duties, functions or personnel added or amended by this act terminate on the date of termination of the particular agency."

1980 Reviser's Note:

Pursuant to authority of section 41-1304-02, the spelling of the first "administrative" in subsection B was corrected as a manifest clerical error.

Cross References

Hearing officer, persons assignable, see § 23-420.

§ 23-108.03. Performance of certain powers and duties

A. The industrial commission shall be responsible for determining the policy of the commission.

B. All powers and duties prescribed by law to the commission in chapters 1, 2 and 6 and article 2 of chapter 3 shall be exercised by the commission, and all powers and duties prescribed by law to the industrial commission may, by resolution, be delegated by the commission to the chief administrative law judge or to any other person or persons designated by the commission, provided that the commission shall not delegate its power or duty to:

1. Make rules and regulations.

§ 23-108.03

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Title 23

- 2. Commute awards to a lump sum.
- 3. License self-insurers.

C. The commission shall be responsible for the official acts of its employees acting in the name of the commission and by its delegated authority.

Added by Laws 1968, 4th S.S., Ch. 6, § 9, eff. Jan. 2, 1969. Amended by Laws 1976, Ch. 162, § 35.

<sup>1</sup> Sections 23-101 et seq., 23-201 et seq., 23-901 et seq., 23-521 et seq.

Historical Note

Source:

Laws 1943, Ch. 26, §§ 2, 7.  
Code 1939, Supp. 1952, §§ 56-1202, 56-1207.  
A.R.S. former § 23-1121.

The 1976 amendment substituted "chapters 1, 2 and 6 and article 2 of chapter 3" for "chapters 1, 2, 3, 6 and 7" in subsec. B.

For intent of Laws 1976, Ch. 162, see Historical Note following § 3-443.

Cross References

Commutation of compensation to lump sum payment, see § 23-1067.

Notes of Decisions

Average monthly wage 2  
Commutation of awards 3  
Judicial notice 1

1. Judicial notice

Court of appeals will not take judicial notice of presence or absence of industrial commission resolutions adopted pursuant to authority of this section governing delegation by the commission of performance of specified powers and duties. *Garza v. Industrial Commission* (1972) 18 Ariz.App. 223, 501 P.2d 399.

2. Average monthly wage

Fact that claimant did not protest average monthly wage determination as made by employee of industrial commission following carrier's acceptance of injury as compensable did not preclude claimant, on theory of res judicata, from challenging determination following subsequent award of unscheduled permanent partial disability since the res judicata defense presupposed that the average monthly wage determination was proper; if it was void from its inception the doctrine of res judicata would never come into play; in any event, petitioner was not claiming that the initial determination was erroneous but only that the commission could not delegate its authority to determine the average monthly wage to one

of its employees. *Mendoza v. Industrial Commission* (1974) 22 Ariz.App. 433, 528 P.2d 184.

Industrial commission was authorized to delegate to Commission's employees its authority to determine the average monthly wage. *Id.*

Failure to include in each claimant's file a certified copy of resolution authorizing employees of industrial commission to fix the average monthly wage of injured workman did not destroy the delegated authority vested by the resolution. *Id.*

Resolution delegating to industrial commission employees the authority to establish average monthly wages involved an internal function of the commission and did not constitute a "rule" for purpose of the Administrative Procedure Act, § 41-1001 et seq., and thus, resolution was not required to be certified and filed with the secretary of state to be effective. *Id.*

Where, in absence of delegation by industrial commission under this section, of its duties, the commission was mandated by § 23-1061 to fix average monthly wage, fact that briefs did not raise issue as to propriety of specified wage determination did not preclude court of appeals from doing so on its own. *Garza v. Industrial Commission* (1972) 18 Ariz.App. 223, 501 P.2d 399.

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3. Comm

See, also  
§ 23-1067.

In procedure commutation that lump sum less income from his commission's. *Scowden v. 1977) 115 /*

A petition industrial corporation must of the commission fails to secure quorum

Where voters voted lump sum commutation and two votes commission proved petition majority vote failed.

§ 23-1

The in gifts and the over Added by

Former 1925, Ch. 8 and Code 1 industrial

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AGRICULTURE AND DAIRYING

§ 3-111

enactment the chapter 152 version is amended to incorporate the amendment made by chapter 245 and the chapter 245 version is repealed."

1986 Reviser's Note:

Prior to the 1988 amendment this section contained the amendments made by Laws 1986, Ch. 211, § 1 and Ch. 368, § 2 which were blended together pursuant to authority of § 41-1304.03.

Administrative Code References

Definitions relating to commissions rules and regulations, see A.C.R.R. R3-1-02.

General powers of Arizona commission of agriculture and horticulture, see A.C.R.R. R3-1-01.

Notes of Decisions

Searches and seizures 3

2. In general

This section authorizes the commission to promulgate rules and regulations necessary for the management or conduct of the board of

pesticide control, but to the commission lacks authority to make administrative decisions for the board or to veto or override board actions. Op.Atty.Gen. No. 180-207.

3. Searches and seizures

Warrantless search of defendants' vehicle by quarantine inspector at agricultural inspection station pursuant to regulation of state commission of agriculture and horticulture designed to prevent introduction of crop pests or diseases into state, which ultimately led to police search of defendant's vehicle and subsequent seizure of marijuana, was proper. State v. Bailey (App. 1978) 120 Ariz. 399, 586 P.2d 648.

General reference to "administration" in § 3-372 stating that the board of pesticide control is to be under the "administration" of the commission of agriculture and horticulture is a restatement of the authority actually granted to the commission in provision of this section granting the commission authority to promulgate rules and regulations necessary to administer the board of pesticide control. Op.Atty.Gen. No. 180-207.

§ 3-104. Judicial review

Decisions of the commission shall be subject to judicial review pursuant to title 12, chapter 7, article 6.<sup>1</sup>

Added by Laws 1980, Ch. 231, § 2.

<sup>1</sup> Section 12-901 et seq.

Historical Note

Laws 1980, Ch. 231, § 1 provides:

"The purpose of this act is to regularize the procedure whereby administrative decisions are judicially reviewed by prescribing that appeals from certain administrative decisions are to be governed by the administrative review act."

Cross References

Stop sale orders, see § 3-238.

Library References

Agriculture ⇨2.  
C.J.S. Agriculture §§ 8 et seq., 51, 67, 96, 100, 134, 175.

ARTICLE 2. STATE ENTOMOLOGIST

Termination under Sunset Law

The activities and functions of the state entomologist shall terminate on July 1, 1991, unless continued. See §§ 41-2366.01 and 41-2377.

Title 3 relating to various agricultural functions and the Arizona commission of agriculture and horticulture is repealed on January 1, 1992. See § 41-2374.01.

Cross References

Sunset review report, see §§ 41-2353 and 41-2354.

Law Review Commentaries

Agricultural inspection: Search for a suspect species, or a species of suspect search. Ariz. State L.J.1976, p. 143.

Library References

Agriculture ⇨2.  
C.J.S. Agriculture §§ 8 et seq., 51, 67, 96, 100, 134, 175.

§ 3-111. State entomologist; salary; oath

A. The commission shall appoint an entomologist qualified by scientific training and practical experience at such salary as is determined pursuant to § 38-611, who shall have the official title of state entomologist of Arizona.

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- B. The entomologist shall take the official oath of office.
- C. The entomologist shall serve as the director of the Arizona commission of agriculture and horticulture.
- D. The entomologist shall serve at the pleasure of the commission.

Amended by Laws 1986, Ch. 368, § 3.

Historical Note

For purposes of commission of agriculture and horticulture, functions of the state entomologist and chemist, and fruit and vegetable standardization activities as stated in Laws 1980, Ch. 245, see note following § 3-101.

Administrative Code References

Quarantine regulations for plants, plant products and other agricultural products and equipment imported into the state, see A.C.R.R. R3-1-50.

Notes of Decisions

1. In general

Use of monies in the pesticide, fertilizer materials, or commercial feed fund is determined by the commission of agriculture and horticulture; however, neither the director of the commission nor the state chemist has any authority to expend monies contained in these funds unless directed to do so by the commission. Op.Atty. Gen. No. 183-021.

§ 3-112. Powers and duties

The entomologist shall:

- 1. In consultation with the commission, appoint all employees of the commission who are authorized by law for exemption from title 41, chapter 4, articles 5 and 6.<sup>1</sup> The entomologist may, without consulting the commission, appoint all other employees necessary to carry out the programs of the commission. All employees shall be under the entomologist's direction and control. Compensation for all such employees shall be as determined pursuant to § 38-611.
- 2. Keep the commission informed concerning dangers to the agricultural and horticultural interests of the state from noxious weeds, crop pests and diseases. He shall act as technical and expert adviser to the commission on all matters pertaining to his office and shall see that the rules, regulations and orders of the commission and the provisions of article 1 of chapter 2 of this title are faithfully enforced and executed. During the intervals between the meetings of the commission, the entomologist may take all necessary and proper means, by court action or otherwise, to enforce the provisions of article 1 of chapter 2 of this title, and the rules, regulations and orders of the commission.
- 3. Prepare and have printed, at least once each year, bulletins containing such information as he deems proper and the rules, regulations and orders of the commission revised to date of publication, and mail copies thereof to the farm bureau and to each common carrier transporting plants and other agricultural products into or within the state.
- 4. Sign all vouchers for the expenditure of money under the provisions of this article and article 1 of chapter 2 of this title, which shall be paid as other claims against the state out of the appropriation for the commission.

Amended by Laws 1988, Ch. 100, § 2, eff. May 24, 1988.

<sup>1</sup> Sections 41-761 et seq., 41-781 et seq.

Historical Note

For purposes of commission of agriculture and horticulture, functions of the state entomologist

and chemist, and fruit and vegetable standardization activities as stated in Laws 1980, Ch. 245, see note following § 3-101.

§ 3-113. Crop pests; diseases and noxious weeds; inspection

The entomologist is empowered and directed:

- 1. To enter in or upon any premises or other place, train, vehicle or other means of transportation within, or entering, the state suspected of containing, harboring or having present therein or thereon one or more of the noxious weeds, crop pests or diseases defined in § 3-201.

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- 2. To inspect, including trapping a noxious weed, crop pest or disease.
- 3. To open, without unnecessary delay, any time during business or operating hours, any container in his charge, if he is found in the container, suspects contains, harbors or has disease defined in § 3-201, and to determine if it may be necessary to determine if it contains such disease.

Amended by Laws 1988, Ch. 100, § 3.

Historical Note

1988 Reviser's Note: Pursuant to authority of § 41-1304, graph 1 a comma was inserted after

§ 3-114. Mail order plants; not

- A. The entomologist shall, if in his possession, any plant materials inspected and found to be dead, dying or otherwise infested, advise the recipient and send the materials contained therein were destroyed.
- B. This section shall not authorize the purposes set forth in this section.

Added by Laws 1980, Ch. 162, § 1.

Historical Note

Laws 1980, Ch. 162, § 2 provides: "Notwithstanding the provisions of this section, the legislature intends that if the provisions of title 41, chapter 20 [§ 41-2351 et seq.] Revised Statutes, operate to terminate any provisions regarding power

ARTICLE 3. A

Term

Title 3 relating to various provisions of agriculture and horticulture § 41-2374.01.

Library References Agriculture § 2, 3.1.

§ 3-124. County agricultural extensions; office space

- A. The board of supervisors of the county, to a county resident of the county, to a county resident whose principal business the product of whom shall be representative of the county's agricultural extension services.
- B. Each member shall be appointed without compensation.
- C. The board of supervisors of the county shall determine the conduct of extension work in the county.

Added by Laws 1974, Ch. 90, § 2. A

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§ 3-124

2. To inspect, including trapping and counting if appropriate, or otherwise determine if a noxious weed, crop pest or disease as defined in § 3-201 is present.

3. To open, without unnecessary injury to property, any box, container or package at any time during business or operating hours, and, after notifying the owner or person in charge, if he is found in the county, to open any car, enclosure or building which he suspects contains, harbors or has present therein or thereon a noxious weed, crop pest or disease defined in § 3-201, and to make an examination and inspection of the contents as may be necessary to determine if a noxious weed, crop pest or disease is present. Amended by Laws 1988, Ch. 100, § 3, eff. May 24, 1988.

**Historical Note** "entering" as a correction of a manifest clerical error.  
**1988 Reviser's Note:** Pursuant to authority of § 41-1304.02, in paragraph 1 a comma was inserted after the word

§ 3-114. Mail order plants; notice to recipient of quality

A. The entomologist shall, if in the performance of his other duties he determines that plant materials inspected and being delivered or transported or shipped by mail or courier are dead, dying or otherwise inferior in quality, mark the plant or package, or both, advising the recipient and sender that, in the judgment of the inspector, the plant materials contained therein were found to be dead, dying or of inferior quality.

B. This section shall not authorize the entomologist to perform inspections solely for the purposes set forth in this section.  
Added by Laws 1980, Ch. 162, § 1.

**Historical Note** Laws 1980, Ch. 162, § 2 provides: "Notwithstanding the provisions of this act, the legislature intends that if the provisions of title 41, chapter 20 [§ 41-2351 et seq.], Arizona Revised Statutes, operate to terminate an agency, any provisions regarding powers, duties, functions or personnel added or amended by this act terminate on the date of termination of the particular agency."  
**Library References** Agriculture Ⓢ2. C.J.S. Agriculture §§ 8 et seq., 51, 67, 96, 100, 134, 175.

ARTICLE 3. AGRICULTURAL EXTENSION WORK

Termination under Sunset Law

*Title 3 relating to various agricultural functions and the Arizona commission of agriculture and horticulture is repealed on January 1, 1992. See § 41-2374.01.*

**Library References** Agriculture Ⓢ2, 3.1. C.J.S. Agriculture §§ 8 et seq., 25, 51, 67, 96, 100, 134, 175.

§ 3-124. County agricultural extension board; members; appointment; term; qualifications; office space

A. The board of supervisors of each county shall appoint seven persons, who are residents of the county, to a county agricultural extension board, four of whom have as their principal business the production of agricultural commodities, and the other three of whom shall be representative of organizations or persons who utilize the county agricultural extension services.

B. Each member shall be appointed for a term of two years. Members shall serve without compensation.

C. The board of supervisors of each county shall provide reasonable office space for the conduct of extension work in that county.

Added by Laws 1974, Ch. 90, § 2. Amended by Laws 1986, Ch. 91, § 1.

## Repeal

*This section is repealed by Laws 1973, Ch. 146, § 85, effective July 1, 1974.*

## Historical Note

## Source:

§ 1, Ch. 45, L. '50, 1st S.S.; 48-144, C. '39, Supp. '52.

For effective date provision of Laws 1973, Ch. 146, see Historical Note preceding section 28-101.

Laws 1970, Ch. 148, §§ 4 and 5, provide:

"Sec. 4. Transfer of department members

"Notwithstanding the provisions of section 2 of this act the members of the present aeronautics department shall, on

the effective date of this act, become members of the aeronautics board, and each such member shall be eligible to complete the term for which he was appointed.

"Sec. 5. Additional board members

"The two additional board positions provided for pursuant to this act shall be filled by the governor's appointment of one member to a term ending in March, 1974, and one member to a term ending in March, 1975. Each such appointee shall be qualified pursuant to the provisions of this act."

## Cross References

Civil Aeronautics Board, see 49 U.S.C.A. § 1321 et seq.  
Federal aviation agency, see 49 U.S.C.A. § 1341 et seq.

§ 2-122. Arizona department of aeronautics; director; duties; salary

## Text of section effective until July 1, 1974

A. There shall be an Arizona department of aeronautics.

B. The department shall be administered by a director who shall be appointed by and serve at the pleasure of the aeronautics board. The director shall have an aeronautical background as may be required by the board. ~~The director shall, under the direction of the aeronautics board, administer laws relating to aeronautics and enforce the rules and regulations of the board. The salary of the director shall be as determined pursuant to § 38-611.~~

As amended Laws 1962, Ch. 51, § 2; Laws 1963, Ch. 33, § 1; Laws 1970, Ch. 148, § 1; Laws 1971, Ch. 114, § 3.

## Repeal

*This section is repealed by Laws 1973, Ch. 146, § 85, effective July 1, 1974. See § 28-1721.*

## Historical Note

## Source:

§§ 2, 3, Ch. 45, L. '50, 1st S.S.; 48-145, 48-146, C. '39, Supp. '52, comb'd.

For effective date provision of Laws 1973 Ch. 146, see Historical Note preceding section 28-101.

§ 3-142

Historical Note

Laws 1980, Ch. 152, § 7 provides:

"Sec. 7. Transition provisions

"A. On the effective date of this act, all powers, duties, programs, records, furnishings, property, equipment, personnel and all unexpended and unencumbered monies of the office of state chemist, the board of pesticide control and the livestock sanitary board relating to the provisions of this act are transferred to the state agricultural laboratory.

"B. On the effective date of this act all unencumbered funds of the chief veterinary meat inspector are transferred to the state agricultural laboratory."

For provisions of Laws 1980, Ch. 152 relating to purpose, legislative intent regarding termination of provisions added or amended, effective date, see note following § 3-141.

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Laws 1982, Ch. 135, § 75 provides:

"Notwithstanding the provisions of this act, the legislature intends that, if the provisions of title 41, chapter 20 [Section 41-2351 et seq.], Arizona Revised Statutes, operate to terminate an agency, any provisions regarding powers, duties, functions or personnel added or amended by this act terminate on the date of termination of the particular agency."

Cross References

Purpose of state agricultural laboratory, see § 3-144.

State agricultural laboratory, see § 3-141 et seq.

Library References

Agriculture ⇐2.

C.J.S. Agriculture §§ 8 et seq., 51, 67, 96, 100, 134, 175.

§ 3-143. Assistant director; powers and duties

A. An assistant director of the division of the state agricultural laboratory is responsible for the administration, operation and control of the state agricultural laboratory.

B. The assistant director shall be employed by the director of the Arizona commission of agriculture and horticulture and is an employee in state service under title 41, chapter 4, articles 5 and 6.<sup>1</sup>

C. The assistant director shall have all the following qualifications:

1. A master's degree in chemistry or its equivalent in practical experience as determined by the commission.

2. Experience in agricultural laboratory testing.

3. Supervisory experience.

D. The assistant director shall:

1. Enforce rules and regulations established pursuant to § 3-147 for the voluntary certification of laboratories providing agricultural laboratory services to persons of this state.

2. Enforce rules and regulations established pursuant to § 3-147 for the mandatory certification of laboratories providing agricultural laboratory services to agencies and departments of this state or its political subdivisions, including those laboratories that are a part of a state agency or department, or a political subdivision of the state.

3. Establish rules and regulations prescribing testing, documentation and quality assurance procedures and requirements.

E. The assistant director may:

1. Contract with and assist other departments and agencies of the state, local and federal governments in the furtherance of the purposes of this article, including contracting to provide laboratory services.

2. Accept and disburse grants, matching fund monies and direct payments from public or private agencies for the provision of services consistent with the overall purposes and objectives of this article.

Added by Laws 1980, Ch. 152, § 3, eff. Jan. 1, 1981. Amended by Laws 1986, Ch. 147, § 2, eff. Aug. 13, 1986, retroactively effective to July 1, 1986.

<sup>1</sup> Sections 41-761 et seq., 41-781 et seq.

AGRICULTURE AND DAIRYING

Historical Note

For provisions of Laws 1980, Ch. 152, relating to purpose, legislative intent regarding termination of provisions added or amended, see note following § 3-141.

Laws 1986, Ch. 147, §§ 11 and 12.

"Sec. 11. Meat testing responsibility

"The assistant director of the division of the state agricultural laboratory shall have the economic and practical feasibility of testing meat for use in state institutions, either at the state agricultural laboratory or with a certified private laboratory. The assistant director shall report his findings to the joint house agriculture and senior resources and agriculture committee on or before December 31, 1986."

"Sec. 12. Retroactive effective date

"This act is effective retroactively to June 30, 1986."

§ 3-144. State agricultural laboratory

A. The state agricultural laboratory shall be established by the state agricultural laboratory article and for laboratory examination and identification necessary to perform pursuant to § 3-142.

B. The state agricultural laboratory shall be established for laboratory and research purposes.

Added by Laws 1980, Ch. 152, § 3, e.

Historical Note

For provisions of Laws 1980, Ch. 152, relating to purpose, legislative intent regarding termination of provisions added or amended, see note following § 3-141.

§ 3-145. Mandatory and voluntary certification; expiration; renewal

A. A person who establishes an agricultural laboratory services in this state shall apply for a certificate that the laboratory so certified is by the commission for the certification of agricultural laboratory services.

B. A person providing guaranteed commercial feed and whole seed shall comply with this section.

C. An individual who collects and certifies agricultural laboratory services shall be certified by the commission.

D. A certified laboratory shall submit an original sample and, on request, § 36-904.01.

E. A person who desires a certificate for an agricultural laboratory shall apply to the commission.

DEPARTMENT; COMMISSION

§ 17-211

*Former Article 2, consisting of §§ 17-211 to 17-214, was repealed by Laws 1958, Ch. 80, § 1, effective July 1, 1958.*

*For disposition of the subject matter of sections repealed or derivation of sections enacted by Laws 1958, Ch. 80, §§ 1 and 2, see Tables preceding § 17-101.*

*For termination under Sunset Law, see italic note, ante.*

§ 17-211. Director; selection; removal; powers and duties: employees

A. The commission shall appoint a director of the Arizona game and fish department, who shall be the chief administrative officer of the game and fish department. The director shall receive compensation as determined pursuant to § 38-611. The director shall be selected on the basis of administrative ability and general knowledge of wildlife management. The director shall act as secretary to the commission, and shall serve for a term of five years, but he may be removed by the commission, after public hearing, for inefficiency, neglect of duty or misconduct in office. If the director is removed, the commission shall make, in its minutes, a complete statement of the proceedings and all charges made against the director, and its findings thereon. The director shall not hold any other office, and shall devote his entire time to the duties of his office.

B. The commission shall prepare an examination for the post of director to comply with the requirements of this title. The examination shall be conducted at the offices of the commission at the capital to establish an active list of eligible applicants. The director shall be selected from those scoring satisfactory grades and having other qualities deemed advisable by the commission, and the commission may call for additional examinations from time to time for selection of a new list of eligible applicants to fill a vacancy.

C. The director may appoint employees necessary to carry out the purposes of this title, when funds for the payment of their salaries are appropriated. Department employees shall be located in different sections of the state where their services are most needed. All appointments must be made in accordance with procedures and qualifications established by the commission. Compensation for persons appointed shall be as determined pursuant to § 38-611. The director may dismiss an employee for inefficiency, neglect of duty or misconduct. Such employee shall be entitled to an appeal before the commission after filing a written request for a hearing within thirty days after date of discharge. The director shall file in the department office a complete statement of charges made against the employee and the findings

§ 17-211

GAME AND FISH

thereon after such written request is received. If the employee fails to file such request within the thirty-day period his rights to appeal are waived and the action of the director shall be final.

D. ~~The director shall~~ have general supervision and control of all activities, functions and employees of the department and shall enforce all provisions of this title, including all commission rules and regulations. Game rangers and wildlife managers may, in addition to other duties:

1. Execute all warrants issued for a violation of this title.
2. Execute subpoenas issued in any matter arising under this title.
3. Search without warrant any aircraft, boat, vehicle, box, game bag or other package where there is sufficient cause to believe that wildlife or parts thereof is possessed in violation of law.
4. Inspect all wildlife taken or transported and seize all wildlife taken or possessed in violation of law, or showing evidence of illegal taking.
5. Seize as evidence devices used illegally in taking wildlife and hold them subject to provisions of § 17-240.
6. Generally exercise the powers of peace officers with primary duties the enforcement of this title.
7. Seize devices that cannot be lawfully used for the taking of wildlife and are being so used and hold and dispose of same pursuant to § 17-240.

Added by Laws 1958, Ch. 80, § 2. Amended by Laws 1962, ch. 98, § 23; Laws 1967, Ch. 105, § 1; Laws 1968, Ch. 173, § 15; Laws 1970, Ch. 204, § 39.

Historical Note

Source:

Laws 1929, Ch. 84, §§ 6, 7, 10.  
 Code 1939, §§ 57-106, 57-107, 57-110.  
 Laws 1945, Ch. 52, §§ 4, 7.  
 Laws 1949, Ch. 43, § 3.  
 Code 1939, Supp. 1952, § 57-108.  
 Laws 1953, Ch. 31, §§ 1, 2.  
 Code 1939, Supp. 1953, §§ 57-105, 57-105a.  
 A.R.S. former §§ 17-211, 17-212.

The 1962 amendment substituted "thirteen thousand eight hundred dollars" for "ten thousand five hundred dollars" in the first sentence (now the second sentence) of subsec. A.

The 1967 amendment substituted "fifteen thousand dollars" for "thirteen thousand eight hundred dollars" in the first sentence (now the second sentence) of subsec. A.

The 1968 amendment substituted "sixteen thousand dollars" for "fifteen thousand dollars" in the first sentence (now the second sentence) of subsec. A.

The 1970 amendment deleted "and shall fix his annual salary at not to exceed sixteen thousand dollars" following "game and fish department" in the first sentence, and inserted the present second sentence in subsec. A.

Cross References

Administration of public safety personnel retirement system, see § 38-847.

DEPARTMENT:

Fish ☞ 11.  
Game ☞ 6.

In general 2  
Scope of authority :  
Validity 1

1. Validity

Phrase "sufficient evidence" in this section applies to game rangers and wildlife managers. Searches when there is sufficient cause to believe that wildlife is possessed in violation of law are lawful. Game rangers and wildlife managers are law enforcement officers. Hence, provisions of this title, at least facially, are constitutional. (App. 1983) 137 Ariz. j.

2. In general

An automobile of the warden, a publicly owned vehicle, was exempt from tax. 1, 1941, was not made tax imposed by adopt Const. Art. 9, § 11 in lieu of all ad valorem vehicle subject to tax. State ex rel. Conway. 130 P.2d 506.

A deputy game warden is liable for injuries caused by deputy game warden's actions or omissions, since deputy game warden is acting in official duty. Tring Co. of Baltimore (P.2d 203).

§ 17-212. Dir.

A. The director shall authenticate records and keep by the department.

B. The director shall maintain in writing records.