

ARIZONA REVISED STATUTES

Title 45 - Waters

Chapter 8 – Flood Control

Article 1 - Cooperation by Counties, Cities and Towns With Federal Government

45-1401. Authority to cooperate with federal government in flood control projects under flood control act of Congress of 1948

In addition to the general powers vested in counties, cities and towns and the governing bodies thereof, counties, cities and towns are empowered to cooperate with the United States or any authorized instrumentality, department or agency thereof in the construction of flood control works, authorized under the flood control act of 1948, to the extent necessary to comply with the provisions thereof.

45-1402. Specific powers

Pursuant to the powers granted under the provisions of section 45-1401, counties, cities and towns may:

1. Acquire and provide, without cost to the United States, land, easements and rights-of-way necessary for the construction of flood control projects.
2. Agree to hold the United States or any instrumentality, department or agency thereof free from any claim for damages arising from the construction, maintenance and operation of such flood control projects.
3. Maintain and operate, upon completion, all such works in accordance with regulations prescribed by the secretary of defense, or any authorized agent of the United States.

45-1403. Power to cooperate in flood control projects under general acts of Congress

A. In addition to the general powers vested in counties, the board of supervisors of any one or more counties are empowered separately or severally to cooperate with the United States or any instrumentality, department or agency thereof for the construction, at the expense of the United States, as authorized by any act of Congress, of a flood control project or projects within any such county or counties for local flood protection.

B. Pursuant to the powers granted by the provisions of subsection A, counties are authorized in relation to the flood control project or projects described in subsection A of this section to:

1. Acquire and provide, without cost to the United States, land, easements and rights of way necessary for the construction of such flood control projects.
2. Hold and save the United States or any instrumentality, department or agency thereof, free from any claim for damages arising from the construction, maintenance and operation of such flood control projects.
3. Maintain and operate, upon completion, all such works in accordance with regulations prescribed by the secretary of the army, or any authorized agent of the United States.
4. Establish and enforce flood-channel limits and regulations, if any, satisfactory to the secretary of the army.

Article 2 - Special Laws Pertaining to Particular Municipalities

45-1421. Power of town of Holbrook to cooperate with federal government in flood control project

A. In addition to the general powers vested in towns, the town of Holbrook is empowered to furnish to the secretary of defense such assurance of local cooperation as may be required, in conformity with the provisions of section 3 of the act of Congress approved December 22, 1944 (Public 534, 78th Congress, 2nd session), in connection with the construction, at the expense of the United States, as authorized by such act, of a project on the Little Colorado river for local flood protection at the town of Holbrook.

B. Pursuant to such powers the town of Holbrook is authorized to:

1. Acquire and provide without cost to the United States all lands, easements and rights-of-way necessary for the construction of the flood control project.
2. Bear the expense of all necessary utility relocations and such highway and highway bridge alterations as may be undertaken if and when it appears desirable to increase the water-carrying capacity under the bridge across the Little Colorado river or in the event a new bridge is constructed by the state.
3. Hold the United States free from claim for damages resulting from construction of the works and from allowing the highway bridge to remain in its present condition, including damage to the bridge, the levee and all other property which may be damaged.
4. Maintain and operate all works upon completion in accordance with regulations prescribed by the secretary of defense.
5. Establish and enforce flood-channel limits and regulations satisfactory to the secretary of defense for the protection of the flood-carrying capacity of the channel, either within or without the corporate limits of the town of Holbrook.

C. The common council of the town of Holbrook is authorized to levy taxes upon the real and personal property located within the town of Holbrook necessary to pay all costs and expenses incurred in carrying out the purposes of this section and in acquiring lands, easements and rights-of-way required for the construction of the project. The taxes shall be levied and collected as and when taxes are levied and collected for town purposes, and the receipts therefrom shall be placed in the town treasury in a fund to be known as the flood control project fund.

45-1422. Power of Mohave and Yuma counties to cooperate with federal government in flood control project

A. In addition to the general powers vested in counties and the governing bodies thereof, the counties of Mohave and Yuma are empowered to furnish to the secretary of defense such assurance of local cooperation as may be required, in conformity with the provisions of section 3 of the act of Congress approved December 22, 1944 (Public 534, 78th Congress, second session), in connection with the construction, at the expense of the United States, as authorized by such act, of a project on the Bill Williams river for local flood protection and known also as the Alamo flood control project.

B. Pursuant to such powers the counties of Mohave and Yuma are authorized to:

1. Acquire and provide without cost to the United States all lands, easements and rights-of-way necessary for the construction of the flood control project.
2. Hold the United States free from claim for damages resulting from construction of the works.
3. Maintain and operate all works upon completion in accordance with regulations prescribed by the secretary of defense.
4. Establish and enforce flood-channel limits and regulations satisfactory to the secretary of defense for the protection of the flood-carrying capacity of the channel.

C. The board of supervisors of the counties of Mohave and Yuma are authorized to levy taxes upon the real and personal property located within the counties of Mohave and Yuma necessary to pay all costs and expenses incurred in carrying out the purposes of this section, and in acquiring lands, easements and rights-of-way required for the construction of the project. The taxes shall be levied and collected as and when taxes are levied and collected for county purposes, and the receipts therefrom shall be placed in the county treasuries in a fund to be known as the flood control project fund.

45-1423. Power of Maricopa and Yuma counties to cooperate with federal government in flood control projects

A. In addition to the general powers vested in counties, the counties of Maricopa and Yuma and the governing bodies thereof are empowered to cooperate with the United States or any instrumentality, department or agency thereof for the construction, at the expense of the United States, as authorized by any act of Congress, of a project or projects on the Salt and Gila rivers and tributaries thereof, in Maricopa and Yuma counties for local flood protection.

B. Pursuant to such powers:

1. The county of Maricopa is authorized in relation to any channel improvement or channel rectification project in Maricopa county on the Salt and Gila rivers and the tributaries thereof to:

(a) Acquire and provide, without cost to the United States, land, easements and rights of way necessary for the construction of flood control projects.

(b) Hold the United States or any instrumentality, department or agency thereof, free from any claim for damages arising from the construction, maintenance and operation of the flood control projects.

(c) Maintain and operate, upon completion, all such works in accordance with regulations prescribed by the secretary of the army, or any authorized agent of the United States.

(d) Establish and enforce flood-channel limits and regulations, if any, satisfactory to the secretary of the army for the protection of the flood-carrying capacity of the channel.

2. The county of Yuma is authorized in relation to any dam and reservoir project on the Gila river to:

(a) Keep free from encroachment the flood channel of the Gila river down stream from the proposed Painted Rock dam and reservoir.

(b) Procure without cost to the United States the adjustment of water rights claims, if any, that result from the improvement.

45-1424. Power of Maricopa and Pinal counties to cooperate with federal government in flood control projects

A. In addition to the general powers vested in counties, the counties of Maricopa and Pinal and the governing bodies thereof are empowered to cooperate with the United States or any instrumentality, department or agency thereof for the construction, at the expense of the United States, authorized by any act of Congress, of a flood control project or projects on Queen Creek and tributaries thereof in Maricopa and Pinal counties for local flood protection.

B. Pursuant to the powers granted by the provisions of subsection A, the counties of Maricopa and Pinal are authorized, in relation to the flood control project or projects described in subsection A of this section to:

1. Acquire and provide, without cost to the United States, land, easements and rights of way necessary for the construction of such flood control projects.

2. Hold and save the United States or any instrumentality, department or agency thereof, free from any claim for damages arising from the construction, maintenance and operation of such flood control projects.

3. Maintain and operate, upon completion, all such works in accordance with regulations prescribed by the secretary of the army, or any authorized agent of the United States.

4. Establish and enforce flood-channel limits and regulations, if any, satisfactory to the secretary of the army.

45-1425. Power of Pinal county to cooperate with and receive assistance from the United States in flood control projects

A. The board of supervisors of Pinal county is empowered to cooperate with and receive assistance from the United States or any instrumentality, department or agency thereof for the construction, at the expense of the United States, as authorized pursuant to any act of Congress, of a flood control project or projects within the county for local flood control.

B. Pursuant to the powers granted by the provisions of subsection A, Pinal county is authorized in relation to the flood control project or projects described in subsection A, to:

1. Acquire and provide, without cost to the United States, land, easements and right of ways necessary for flood control works of improvement.

2. Hold and save the United States or any instrumentality, department or agency thereof, free from any claim for damages arising from the construction, maintenance and operation of flood control works of improvement.

3. Construct, carry out, maintain and operate all such works in accordance with regulations prescribed by the secretary of the army or any authorized agent of the United States.

4. Establish and enforce flood-channel limits and regulations, if any, satisfactory to the secretary of the army or any authorized agent of the United States.

45-1426. Limitations on powers

Notwithstanding section 45-1425, the board of supervisors of Pinal county shall not exercise any power or authority granted by section 45-1425, nor shall it undertake or cooperate in either the planning,

authorization, construction, acquisition, extension, improvement, maintenance, or operation of any flood control structures, dams, systems or projects on any portion of a watershed supplying water to any dam and reservoir existing within the state of Arizona having a designed water storage capacity of fifty thousand acre feet or more, or to any existing diversion dam and canal system having facilities within the state of Arizona designed to divert and carry not less than one thousand cubic feet per second, without first having obtained the written consent of the agency, district, association, company or organization owning or operating or being served by such dam, reservoir, diversion dam and canal system. Such consent, however, shall only be required from irrigation districts and agricultural improvement districts organized pursuant to the laws of the state of Arizona as defined under title 48, and any other associations or organizations operating such dams, reservoirs, diversion dams and canal systems as a part of a federal reclamation project.

45-1427. Power of Cochise, Graham and Gila counties and the towns of Safford and Thatcher and the city of Douglas to cooperate with the United States in flood control projects

A. The boards of supervisors of Cochise, Graham and Gila counties and the governing bodies of the towns of Safford and Thatcher and the city of Douglas are empowered to cooperate with the United States or any instrumentality, department or agency thereof for the construction, as authorized by any act of Congress, of a flood control project or projects within the county for local flood protection.

B. Pursuant to the powers granted by the provisions of subsection A, Cochise, Graham and Gila counties and the towns of Safford and Thatcher and the city of Douglas are authorized in relation to the flood control project or projects described in subsection A of this section to:

1. Acquire and provide, without cost to the United States, land, easements and rights of way necessary for the construction of flood control projects.
2. Hold and save the United States or any instrumentality, department or agency thereof, free from any claim for damages arising from the construction, maintenance and operation of flood control projects.
3. Construct and carry out, maintain and operate, upon completion, all such works in accordance with regulations prescribed by the secretary of the army, or any authorized agent of the United States.
4. Establish and enforce flood-channel limits and regulations, if any, satisfactory to the secretary of the army.
5. Enter into an agreement with the federal government for the payment, on a pro rata basis, of the cost of construction and maintenance of any project under the provisions of this section.

45-1428. Limitations on powers

Notwithstanding section 45-1427, neither the boards of supervisors of Cochise, Graham or Gila counties nor the governing bodies of the towns of Safford or Thatcher or the city of Douglas shall exercise any power or authority granted by section 45-1427, nor shall they undertake or cooperate in either the planning, authorization, construction, acquisition, extension, improvement, maintenance, or operation of any flood control structures, dams, systems or projects on any portion of a watershed supplying water to any dam and reservoir existing within the state of Arizona having a designed water storage capacity of fifty thousand acre feet or more, or to any existing diversion dam and canal system having facilities within the state of Arizona designed to divert and carry not less than one thousand cubic feet per second, without first having obtained the written consent of the agency, district, association, company or organization owning or operating or being served by such dam, reservoir, diversion dam and canal system. Such consent, however, shall only be required from irrigation districts and agricultural improvement districts organized pursuant to the laws of the state of Arizona as defined under title 48, and any other associations or organizations operating such dams, reservoirs, diversion dams and canal systems as a part of a federal reclamation project.

45-1429. Power of Santa Cruz county to cooperate with and receive assistance from the United States in flood control projects

A. The board of supervisors of Santa Cruz county is empowered to cooperate with and receive assistance from the United States or any instrumentality, department or agency thereof for the construction, at the expense of the United States, as authorized pursuant to any act of Congress, of a flood control project or projects within the county for local flood control.

B. Pursuant to the powers granted by the provisions of subsection A, the board of supervisors of Santa Cruz county is authorized in relation to the flood control project or projects described in subsection A to:

1. Acquire and provide, without cost to the United States, land, easements and right of ways necessary for flood control works of improvement.
2. Hold and save the United States or any instrumentality, department or agency thereof, free from any claim for damages arising from the construction, maintenance and operation of flood control works of improvement.
3. Construct, carry out, maintain and operate all such works in accordance with regulations prescribed by the secretary of the army or any authorized agent of the United States.
4. Establish and enforce flood-channel limits and regulations, if any, satisfactory to the secretary of the army or any authorized agent of the United States.

C. Notwithstanding anything to the contrary herein set forth, the board of supervisors of Santa Cruz county shall not exercise any power or authority granted by paragraphs A and B hereof, nor shall they undertake or cooperate in either the planning, authorization, construction, acquisition, extension, improvement, maintenance or operation of any flood control structures, dams, systems or projects on any portion of the Santa Cruz river watershed, or its tributaries, without having first obtained written consent of the city of Tucson, the town of Eloy, the city of Casa Grande, and of any and all irrigation districts or electrical districts, the whole or any part of whose underground or surface waters are obtained and derived from the Santa Cruz river and the tributaries.

Article 3 - Flood Control Assistance

45-1441. Definitions

In this chapter, unless the context otherwise requires:

1. "Design flood" means a selected flood against which protection is provided, or eventually will be provided, by means of flood protective or control works. When a federal survey has been authorized the design flood will be determined by the appropriate federal agency and in all other cases it will be determined by the responsible public agency. It is the basis for design and operation of a particular project after full consideration of flood characteristics, frequencies, and potentials and economic and other practical considerations.
2. "Designated floodway" means the channel of a stream and that portion of the adjoining flood plain required to reasonably provide for the construction of a project for passage of the design flood, including lands necessary for construction of project levees.
3. "Flood control project" means any project for flood control purposes on which construction commences after April 19, 1973 and which either:
 - (a) Is authorized under federal law and requires local participation.
 - (b) Is authorized under state law.
4. "Lands, easements and rights-of-way" means:
 - (a) Lands and rights of interest in lands necessary for flood control storage, channel improvements and channel rectifications.
 - (b) Lands, rights or interests in lands necessary in connection with the construction, operation or maintenance of such storage, channel improvements and rectifications, including those necessary for flowage purposes, spoil areas, borrow pits or for access roads.
 - (c) The cost of the relocation, reconstruction or replacement of existing improvements, structures or utilities rendered necessary by such channel improvements and rectifications.
 - (d) Land enhancement costs, if any, charged to a public agency by a federal agency in connection with construction of a flood control project.
5. "Public agency" means any state agency or political subdivision of the state.

45-1442. Investigation and certification by director of water resources

Any public agency may request the director of water resources to investigate any flood control project in this state and report to the legislature the results of its investigation, and the director shall certify

to the legislature the date state funds should be appropriated to pay the cost of state participation in such project and the estimated amount.

45-1443. Limitation on expenditure of funds

A. The director shall not disburse any funds for a flood control project defined by section 45-1441, paragraph 3, subdivision (a) until the legislature has appropriated funds to contribute toward the local cost of land, easements and rights-of-way for that project. The director shall not undertake the construction of flood control projects.

B. Prior to the federal government budgeting funds for the construction of a flood control project, the director may only disburse the state's portion of the costs incurred by a public agency in acquiring fee title to real property necessary for such project. At such times as the federal government does budget funds for the construction of any flood control project in this state, the director may then disburse the state's portion of the costs for easements and rights-of-way.

C. If a public agency receives the state's portion of costs for acquiring fee title to lands, easements and rights-of-way, which are subsequently found to be unnecessary for a flood control project, the public agency shall, within a reasonable time, sell such lands, easements and rights-of-way at fair market value and return to the state one-half the net amount of money realized from such sale after deducting direct expenses of the sale, or may retain such lands, easements or rights-of-way, and return to the state one-half of the fair market value of such lands, easements and rights-of-way.

45-1444. Floodplain regulations: effect of failure to adopt

The director shall not disburse any monies pursuant to this chapter to pay any costs of lands, easements and rights-of-way for a flood control project defined by section 45-1441, paragraph 3, subdivision (a) for which the appropriate public agency fails to establish, within a reasonable time after notification by the director, the necessary floodplain regulations for the area classified as a designated floodway by the director upon review of the complete federal or federally assisted project report.

45-1445. Flood control assistance fund; limit of financial assistance

A. A flood control assistance fund is established. All or part of an appropriation to the fund may be allocated for a specific flood control project defined by section 45-1441, paragraph 3, subdivision (a). All payments for flood control assistance under this article shall be made from the fund. The monies in the fund are exempt from section 35-190, relating to lapsing of appropriations.

B. The state may contribute funds not to exceed one-half of the non-federally supported cost solely for lands, easements and rights-of-way necessary in connection with the construction of any federal or federally assisted flood control project recommended by the director, subject to appropriation of monies by the legislature.

45-1446. Time for determining costs; change of determination

A. The state's portion of the costs of lands, easements and rights-of-way shall be determined by the director at or prior to the time the director submits his report to the legislature recommending an appropriation for such project.

B. The state's portion of such costs shall not be changed unless there are major project changes made in the plan of improvement, in which case the director, prior to the next appropriation of state funds for the project, shall review the project and make such reports and recommendations to the legislature as he deems justified by the project changes.

45-1447. State and United States held harmless; nonliability

The director shall not disburse any monies appropriated pursuant to this chapter or any special appropriations for flood control unless and until a public agency has in writing assumed the obligations of maintenance and provided this state and, if applicable, the federal government with written indemnification from damages due to the construction of flood control projects.

45-1448. Disbursement to public agencies

A. Money appropriated to the director for flood control projects shall be disbursed to public agencies upon order of the director after application by such agencies showing the necessity, purpose and use to be made of such monies.

B. The director shall disburse monies appropriated for flood control projects or special appropriations for flood control if the director determines that either:

1. All local monies necessary for the project are available.

2. A public agency has made necessary advances or incurred obligations for the purpose of expediting projects for which such monies are required and giving such other information as the director may require.

C. The director may require interim reports for flood control projects and flood control funded by special appropriations detailing expenditures of disbursed sums and containing such additional information as required by the director.

D. The director may refuse to make any disbursement of any of the monies available if the provisions of this chapter are violated.

45-1449. Report to legislature

The director shall report to the legislature, within fifteen days after the commencement of each regular session, on the disbursal or refusal to disburse money appropriated to him by the legislature for purposes of this chapter and on the disbursal or refusal to disburse monies in any special appropriations for flood control.

45-1450. Consideration of water uses in studying flood control projects

In studying flood control projects, the director shall give full consideration to all beneficial uses of the state's water and other natural resources, including, but not limited to, irrigation, generation of electric energy, municipal and industrial consumption of water and power, recharge of groundwater basins, preservation and development of fish and wildlife resources and recreational facilities in order that recommendations may be made as to the feasibility of such projects and the method of financing feasible projects. Nothing in this chapter shall affect existing water rights.

45-1451. Powers and duties of director

A. The director, or his duly authorized representative, may call, conduct, attend or otherwise participate in conferences or hearings, official or unofficial, within or without this state, with interested persons, agencies or officers of this or any other state or the federal government, concerning flood control and floodplain management.

B. The director shall keep informed as to any activities, requirements or procedures of the federal government, or any of its departments or agencies, affecting any proposed flood control projects within the scope of this chapter.

C. The director shall:

1. Collect and file data.

2. Make necessary studies and surveys.

3. Make investigations.

4. Prepare plans and estimates for costs and benefits of all proposed water development projects.

5. Determine the damage created by floodwaters.

6. Encourage the creation and development of flood control and water conservation plans and activities of the several counties, cities, state agencies and public districts.

7. Cooperate with the federal government or any of its departments or agencies, counties, cities, state agencies or public districts in carrying out measures for control, storage or use of waters in streams, rivers or other waterways, and the watersheds thereof within this state.

8. Adopt rules for dispensing monies appropriated by the legislature pursuant to this chapter and for dispensing monies in special appropriations for flood control.

Article 4 - Alternative Assistance

45-1471. Alternative flood control assistance to flood control districts

A. Any flood control district organized pursuant to title 48, chapter 21 may, subject to available appropriations, qualify for assistance from this state for any flood control project defined by section 45-1441, paragraph 3, subdivision (b) if such project is being developed pursuant to a plan developed pursuant to section 48-3617.

B. Assistance granted pursuant to this article shall be administered by the director of water resources and shall not exceed for any single flood control project an amount equal to fifty per cent of the total cost of the flood control project or five million dollars, whichever amount is less.

45-1473. Prohibition on assistance for failure to adopt floodplain regulations

The director shall not expend or disburse any monies pursuant to this article for the following functions located or to be located in an area for which the appropriate public agency has failed to adopt and enforce for its area of jurisdiction floodplain regulations required by title 48, chapter 21:

1. Flood control works.
2. Flood repairs.
3. Flood hazard mitigation.
4. Assistance in developing flood control plans or delineating floodplains.
5. Payment of any costs of lands, easements or rights-of-way or for any other purpose for a flood control project.

Article 5 - Flood Control Loans

45-1491. Flood control loans

A. The director of water resources may grant loans to defray the cost to a county flood control district, organized pursuant to title 48, chapter 21, for flood control projects eligible for alternative flood control assistance under article 4 of this chapter. Loans may be granted, subject to the provisions of this article, in such manner and upon such terms and conditions as may be prescribed by the director.

B. Upon application, the director shall make full and careful investigation of the qualifications of the applicant district and the proposed project. The director shall determine whether the proposed project would provide meaningful flood control and is in the best interests of this state.

C. The loans granted by the director shall be for not more than twenty-five per cent of the cost of a project or two and one-half million dollars, whichever is less, and for a term of not more than twenty years.

D. The loans shall bear interest at the following rates:

1. If the loan is for a term of not more than five years, the rate is three per cent per year.
2. If the loan is for a term of more than five years, but not more than ten years, the rate is five per cent per year.
3. If the loan is for a term of more than ten years, the rate is six per cent per year.

E. Each loan shall be evidenced by a contract between the district and the director, acting on behalf of this state. The contract shall provide for the loan by this state of a stated sum defraying up to twenty-five per cent of the costs of the flood control project. The contract shall provide for equal annual payments of principal and interest for the term of the loan.

F. The district board shall each year levy a tax sufficient to pay the annual amount of principal and interest due on the loan.

G. The attorney general may commence whatever actions are necessary to enforce the contract and achieve repayment of loans provided by the director pursuant to this article.

Article 6 - Flood Warning Systems

45-1501. Definitions

In this article, unless the context otherwise requires:

1. "Flood warning system" means a project or series of projects to detect floods and develop flood preparedness plans and may include the system known as the automatic local evaluation in real time system.
2. "Local entity" means a city, town, county, political subdivision or drainage and flood control district organized under title 48, chapter 18 or 21 or any other special taxing district organized under title 48.

45-1502. Powers

The director may:

1. Cooperate and coordinate with the federal government or any of its departments or agencies and local entities to establish a flood warning system for this state.
2. Disburse monies from the flood warning system fund pursuant to section 45-1504.
3. Provide technical assistance to local entities to develop and maintain a flood warning system for this state.
4. Employ staff to provide technical assistance.
5. Enter into intergovernmental agreements for the purposes stated in this article.

45-1503. Flood warning system fund

A. A flood warning system fund is established for developing a flood warning system, purchasing flood warning system equipment and providing assistance to local entities on a cost sharing basis for the planning, design, installation, operation and maintenance of flood warning systems. The director shall administer the fund.

B. The flood warning system fund shall consist of monies from legislative appropriations, grants and contributions from other public agencies.

C. On notice from the director, the state treasurer shall invest and divest monies in the fund as provided by section 35-313 and monies earned from investment shall be credited to the fund.

D. Monies in the fund are exempt from lapsing under section 35-190.

45-1504. Flood warning system grants

A. The director may grant monies from the flood warning system fund established by section 45-1503 either by advancing monies or by making reimbursements to local entities eligible for flood warning system assistance under this article to defray the cost to the local entity of the following:

1. Plan and design of a flood warning system.
2. Purchase of equipment necessary to install a flood warning system.
3. Installation of flood warning system equipment.
4. Initial operation of the system including hydrologic and hydraulic modeling and system calibration.

B. On application, the director shall make a full and careful investigation of the qualifications of the applicant and the proposed project. The director shall determine whether the proposed flood warning system would provide meaningful flood warning and is in the best interest of this state.

C. No grant may be for more than seventy-five per cent of the cost of equipment necessary to install the flood warning system.

D. Each grant shall be evidenced by an intergovernmental agreement between the local entity and the director, acting on behalf of this state.

E. Grants may be awarded subject to this article in the manner and on the terms and conditions as may be prescribed by the director. Grants made pursuant to this article are exempt from title 41, chapter 23.

F. The director shall not grant any monies from the flood warning system fund to a local entity in an area for which the appropriate public agency has failed to adopt and enforce for its area of jurisdiction floodplain regulations required by title 48, chapter 21.

G. Grants may be made directly to the director pursuant to this section for the purpose of planning, designing, installing, operating and maintaining a flood warning system. Grants made directly to the director shall be evidenced by a written scope of work.

45-1505. Operation and maintenance of flood warning system

A. The local entity with an intergovernmental agreement with the director regarding a component of a flood warning system is responsible for the operation and maintenance of that component.

B. The director may provide training, technical assistance and ongoing oversight to the local entity responsible for a component of the flood warning system.

C. If maintenance of a component of the flood warning system is required and the local entity with an intergovernmental agreement with the director for that component does not complete the required maintenance within fifteen days of written notice of the required maintenance from the director, the director may complete the required maintenance.

D. In the director's sole discretion, the director may charge a local entity for the costs actually incurred in completing required maintenance or providing ongoing oversight of the operation and maintenance of a component of the flood warning system. On behalf of the department, the attorney general may commence whatever actions are necessary to collect payment of charges imposed pursuant to this subsection.

45-1506. Immunity of state from liability for losses

This state, its departments, agencies, officials, employees and agents and any local entities as defined in section 45-1501 are immune from liability for losses arising from damage, theft, change of location or the partial or total failure of any plan, design, installation, operation or maintenance of a flood warning system.