REFERENCE TITLE: intrastate water resources; state sovereignty

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SCR 1024

Introduced by
Senator Griffin

A CONCURRENT RESOLUTION

SUPPORTING STATE SOVEREIGNTY OVER INTRASTATE WATER RESOURCES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Whereas, the Tenth Amendment of the United States Constitution preserves powers not delegated to the federal government for the states, establishing federalism and state sovereignty as integral founding principles of American government; and

Whereas, the United States Supreme Court in Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers, (2001) and Rapanos v. United States, (2006) held that the Federal Water Pollution Control Act, known as the Clean Water Act, did not intend to grant federal authority over intrastate waters, and that these waters are not subject to regulation under the interstate commerce clause of the United States Constitution; and

Whereas, United States Senate Bill 787 and United States House of Representatives Bill 5088 (2009) would have expanded the Clean Water Act's jurisdiction from "navigable waters of the United States" to "waters of the United States" and defined "waters of the United States" to mean "all other waters, such as intrastate lakes, rivers, streams including intermittent streams, mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds"; and

Whereas, this definition grants the United States Environmental Protection Agency broad and vague flexibility to interpret federal jurisdiction expansively, which it attempted to do under the current law and with which the Supreme Court disagreed; and

Whereas, these bills represented a clear attempt by the federal government to deprive states of their jurisdiction over intrastate waters and place all water resources under the control of the federal government; and

Whereas, legislation such as this would severely diminish state sovereignty over natural resources and would detrimentally involve the federal government in an inefficient and cumbersome effort to regulate highly localized water resources such as abandoned pits and ponds; and

Whereas, jurisdiction over intrastate water resources is a role traditionally held by individual state governments in order to promote efficient and effective usage.

Therefore

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

That the Members of the Legislature support the continued sovereignty and jurisdiction of the states to regulate intrastate water resources and oppose any attempt by the federal government to diminish this jurisdiction unnecessarily.