

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

SENATE BILL 1417

AN ACT

REPEALING SECTION 43-1074.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2012, CHAPTER 170, SECTION 59; REPEALING SECTION 43-1168, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2012, CHAPTER 170, SECTION 74; AMENDING SECTION 45-802.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 131, SECTION 2; REPEALING SECTION 45-802.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2012, CHAPTER 312, SECTION 3; REPEALING LAWS 2008, CHAPTER 243, SECTION 6, AS AMENDED BY LAWS 2012, CHAPTER 241, SECTION 8; RELATING TO MULTIPLE, DEFECTIVE AND CONFLICTING LEGISLATIVE DISPOSITIONS OF STATUTORY TEXT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Purpose

3 1. Section 43-1074.01, Arizona Revised Statutes, as amended by Laws
4 2011, Second Special Session, chapter 1, section 97, was amended by Laws
5 2012, chapter 3, section 47 and Laws 2012, chapter 170, section 59. The Laws
6 2011, Second Special Session, chapter 1, section 97 version of section
7 43-1074.01, Arizona Revised Statutes, is not effective until January 1, 2018.
8 The chapter 3 version included a delayed effective date of January 1, 2018
9 and also included all the changes made by the chapter 170 version. The
10 chapter 170 version failed to include the delayed effective date of January
11 1, 2018 and was effective on August 2, 2012. In order to repeal the double
12 amendment activity and correct a potentially defective enactment, this act
13 repeals section 43-1074.01, Arizona Revised Statutes, as amended by Laws
14 2012, chapter 170, section 59.

15 2. Section 43-1168, Arizona Revised Statutes, as amended by Laws 2011,
16 Second Special Session, chapter 1, section 114, was amended by Laws 2012,
17 chapter 3, section 54 and Laws 2012, chapter 170, section 74. The Laws 2011,
18 Second Special Session, chapter 1, section 114 version of section 43-1168,
19 Arizona Revised Statutes, is not effective until January 1, 2018. The
20 chapter 3 version included a delayed effective date of January 1, 2018 and
21 also included all the changes made by the chapter 170 version. The chapter
22 170 version failed to include the delayed effective date of January 1, 2018
23 and was effective on August 2, 2012. In order to repeal the double amendment
24 activity and correct a potentially defective enactment, this act repeals
25 section 43-1168, Arizona Revised Statutes, as amended by Laws 2012, chapter
26 170, section 74.

27 3. Section 45-802.01, Arizona Revised Statutes, as amended by Laws
28 2010, chapter 131, section 2, was amended by Laws 2012, chapter 312,
29 section 3. The Laws 2010, chapter 131, section 2 version of section
30 45-802.01, Arizona Revised Statutes, is not effective until January 1, 2025
31 and the Laws 2012, chapter 312, section 3 amendment failed to include the
32 delayed effective date of January 1, 2025 and was effective on August 2,
33 2012. In order correct a potentially defective enactment, this act amends
34 the previous valid version of section 45-802.01, Arizona Revised Statutes, to
35 incorporate the amendments made by Laws 2012, chapter 312, section 3 and the
36 chapter 312 version is repealed.

37 4. Laws 2012, chapter 241, section 8 and Laws 2012, chapter 281,
38 section 2 both amended Laws 2008, chapter 243, section 6. The chapter 281
39 version included all of the changes made by the chapter 241 version. In
40 order to eliminate the double amendment activity, this act repeals Laws 2008,
41 chapter 243, section 6, as amended by Laws 2012, chapter 241, section 8.

42 Sec. 2. Repeal

43 Section 43-1074.01, Arizona Revised Statutes, as amended by Laws 2012,
44 chapter 170, section 59, is repealed.

1 Sec. 3. Repeal

2 Section 43-1168, Arizona Revised Statutes, as amended by Laws 2012,
3 chapter 170, section 74, is repealed.

4 Sec. 4. Section 45-802.01, Arizona Revised Statutes, as amended by
5 Laws 2010, chapter 131, section 2, is amended to read:

6 45-802.01. Definitions

7 Unless the context otherwise requires, the terms defined in section
8 45-402 have the same meanings in this chapter and:

9 1. "Aquifer" means a geologic formation that contains sufficient
10 saturated material to be capable of storing water and transmitting water in
11 usable quantities to a well.

12 2. "Area of impact" means, as projected on the land surface, the area
13 where the stored water has migrated or is located.

14 3. "CERCLA" means the comprehensive environmental response,
15 compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat.
16 2767; 42 United States Code sections 9601 through 9657), commonly known as
17 "superfund".

18 4. "Constructed underground storage facility" means a facility that
19 meets the requirements of section 45-811.01 and that is designed and
20 constructed to store water underground pursuant to permits issued under this
21 chapter.

22 5. "District" means a groundwater replenishment district established
23 under title 48, chapter 27.

24 6. "District member" means a member of the groundwater replenishment
25 district as provided by title 48, chapter 27.

26 7. "Electrical district" means a corporate body established pursuant
27 to title 48, chapter 12.

28 8. "Groundwater savings facility" means a facility that meets the
29 requirements of section 45-812.01 in an active management area or an
30 irrigation non-expansion area at which groundwater withdrawals are eliminated
31 or reduced by recipients who use in lieu water on a gallon-for-gallon
32 substitute basis for groundwater that otherwise would have been pumped from
33 within that active management area or irrigation non-expansion area.

34 9. "In lieu water" means water that is delivered by a storer to a
35 groundwater savings facility pursuant to permits issued under this chapter
36 and that is used in an active management area or an irrigation non-expansion
37 area by the recipient on a gallon-for-gallon substitute basis for groundwater
38 that otherwise would have been pumped from within that active management area
39 or irrigation non-expansion area.

40 10. "Long-term storage account" means an account established pursuant
41 to section 45-852.01.

42 11. "Long-term storage credit" means stored water that meets the
43 requirements of section 45-852.01 and that has been credited to a long-term
44 storage account.

1 12. "Managed underground storage facility" means a facility that meets
2 the requirements of section 45-811.01 and that is designed and managed to
3 utilize the natural channel of a stream to store water underground pursuant
4 to permits issued under this chapter through artificial and controlled
5 releases of water other than surface water naturally present in the stream.
6 Surface water flowing in its natural channel is not a managed underground
7 storage facility.

8 13. "Master replenishment account" means an account established
9 pursuant to section 45-858.01 for a groundwater replenishment district.

10 14. "Recipient" means a person who receives in lieu water for use at a
11 groundwater savings facility.

12 15. "Recoverable amount" means the amount of water, as determined by
13 the director, that will reach the aquifer through water storage.

14 16. "Replenishment" means the storage of water or use of long-term
15 storage credits by a groundwater replenishment district to fulfill its duties
16 under title 48, chapter 27, article 3, by a multi-county water conservation
17 district to fulfill its duties under title 48, chapter 22, article 4 or by an
18 active management area water district to fulfill its duties under title 48,
19 chapter 28, article 7.

20 17. "Reserve target" has the same meaning prescribed in section
21 48-3701.

22 18. "Storage facility" means a groundwater savings facility or an
23 underground storage facility.

24 19. "Stored water" means water that has been stored or saved
25 underground pursuant to a storage permit issued under this chapter.

26 20. "Storer" means the holder of a water storage permit issued pursuant
27 to section 45-831.01 or a person to whom a water storage permit has been
28 conveyed pursuant to section 45-831.01, subsection F.

29 21. "Underground storage facility" means a constructed underground
30 storage facility or a managed underground storage facility.

31 22. "Water that cannot reasonably be used directly" means water that
32 the storer cannot reasonably put to a direct use during the calendar year,
33 including:

34 (a) Except as provided in subdivision (b) or except for an
35 agricultural improvement district as provided in subdivision (d), if the
36 storer is a municipal provider, the amount of central Arizona project water
37 that exceeds the amount of mined groundwater withdrawn during the calendar
38 year by the storer in the active management area in which the storer's
39 service area is located. If the storer withdrew mined groundwater during a
40 calendar year in which the storer stored central Arizona project water
41 underground pursuant to the storage permit, the amount of central Arizona
42 project water stored underground during that year equal to the amount of
43 mined groundwater withdrawn from the active management area in which the
44 storer's service area is located shall not be credited to the storer's
45 long-term storage account but may be considered as being available for

1 recovery by the storer on an annual basis under section 45-851.01. In
2 calculating the amount of mined groundwater withdrawn by the storer from the
3 active management area, the director, at the request of the storer, shall
4 exclude any groundwater withdrawn, treated and delivered for direct use as
5 part of a remedial action undertaken pursuant to CERCLA or title 49, chapter
6 2, article 5. For the purposes of this subdivision, "mined groundwater" and
7 "municipal provider" have the same meanings prescribed in section 45-561.

8 (b) If the storer is a municipal provider that has been designated as
9 having an assured water supply pursuant to section 45-576, the amount of
10 central Arizona project water that exceeds the amount of deficit groundwater
11 withdrawn during the calendar year by the storer in the active management
12 area in which the storer's service area is located. If the storer withdrew
13 deficit groundwater during a calendar year in which the storer stored central
14 Arizona project water underground pursuant to the storage permit, the amount
15 of the central Arizona project water stored underground during that year
16 equal to the amount of deficit groundwater withdrawn from the active
17 management area in which the storer's service area is located shall not be
18 credited to the storer's long-term storage account but may be considered as
19 being available for recovery by the storer on an annual basis pursuant to
20 section 45-851.01. In calculating the amount of deficit groundwater
21 withdrawn by the storer from the active management area, the director, at the
22 request of the storer, shall exclude any groundwater withdrawn, treated and
23 delivered for direct use as part of a remedial action undertaken pursuant to
24 CERCLA or title 49, chapter 2, article 5. For the purposes of this
25 subdivision, "municipal provider" has the same meaning prescribed in section
26 45-561 and "deficit groundwater" means that amount of groundwater withdrawn
27 within an active management area for delivery and use within a service area
28 by a municipal provider in excess of the amount of groundwater that may be
29 withdrawn by the municipal provider consistent with the achievement of the
30 active management area's management goals as prescribed by rules adopted by
31 the director pursuant to section 45-576.

32 (c) Except as provided in subdivision (d), if the storer is not a
33 municipal provider, the amount of central Arizona project water stored in an
34 active management area that exceeds the amount of groundwater withdrawn
35 during the calendar year by the storer in that active management area. If
36 the storer withdrew groundwater in an active management area during a
37 calendar year in which the storer stored central Arizona project water
38 underground in that active management area pursuant to the storage permit,
39 the amount of central Arizona project water stored underground during that
40 year equal to the amount of groundwater withdrawn from the active management
41 area shall not be credited to the storer's long-term storage account but may
42 be considered as being available for recovery by the storer on an annual
43 basis under section 45-851.01. FOR THE PURPOSES OF THIS SUBDIVISION,
44 "MUNICIPAL PROVIDER" HAS THE SAME MEANING PRESCRIBED IN SECTION 45-561. In

1 calculating the amount of groundwater withdrawn by the storer from the active
2 management area, the director, at the request of the storer, shall exclude:

3 (i) **THE AMOUNT OF** any groundwater withdrawn, treated and delivered for
4 direct use as part of a remedial action undertaken pursuant to CERCLA or
5 title 49, chapter 2, article 5. ~~For the purposes of this subdivision,~~
6 ~~"municipal provider" has the same meaning prescribed in section 45-561.~~

7 (ii) **THE AMOUNT OF GROUNDWATER WITHDRAWN BY THE STORER DURING THE YEAR**
8 **FOR MINERAL EXTRACTION OR METALLURGICAL PROCESSING IF THE STORER WAS ENGAGED**
9 **IN MINERAL EXTRACTION AND METALLURGICAL PROCESSING WITHIN AN INITIAL ACTIVE**
10 **MANAGEMENT AREA ON OR BEFORE JANUARY 1, 2011.**

11 (d) The amount of central Arizona project water stored in an active
12 management area in any year after 1994 by an agricultural improvement
13 district established pursuant to title 48, chapter 17 for use at those
14 portions of electrical generating facilities that are constructed or expanded
15 after June 12, 1980, subject to both of the following:

16 (i) If groundwater was used during a year in an active management area
17 at those portions of the electrical generating facilities that were owned and
18 operated by the agricultural improvement district and that were constructed
19 or expanded after June 12, 1980, the amount of the central Arizona project
20 water stored during that year equal to the amount of the groundwater
21 withdrawn during the year for use at those portions of the facilities that
22 were owned and operated by the agricultural improvement district and that
23 were constructed or expanded after June 12, 1980 shall not be credited to the
24 agricultural improvement district's long-term storage account but may be
25 considered as being available for recovery by the agricultural improvement
26 district on an annual basis under section 45-851.01.

27 (ii) Long-term storage credits accrued as a result of the storage of
28 the central Arizona project water may be recovered within the active
29 management area by the agricultural improvement district only for the purpose
30 of providing central Arizona project water to electrical generating
31 facilities that were owned and operated by the agricultural improvement
32 district and only pursuant to any water requirement included in a facility's
33 certificate of environmental compatibility. Subject to section 45-854.01,
34 the long-term storage credits may be assigned by the agricultural improvement
35 district only to the owner of an electrical generating facility for use
36 pursuant to any water requirement included in that facility's certificate of
37 environmental compatibility.

38 (e) Surface water made available by dams constructed or modified after
39 August 13, 1986.

40 (f) Until the year 2025:

41 (i) Effluent.

42 (ii) If the storage facility is in an active management area, water
43 from outside the active management area that would not have reached the
44 active management area without the efforts of the storer.

1 (iii) If the storage facility is outside of an active management area,
2 water from outside the groundwater basin in which the storage facility is
3 located that would not have reached the groundwater basin without the efforts
4 of the storer.

5 (g) Water that is delivered through the central Arizona project and
6 that is acquired by the Arizona water banking authority.

7 23. "Water storage" means adding water to an aquifer or saving water in
8 an aquifer pursuant to permits issued under this chapter.

9 24. "Water storage permit" means a permit issued pursuant to section
10 45-831.01 to store water at a storage facility.

11 Sec. 5. Repeal

12 Section 45-802.01, Arizona Revised Statutes, as amended by Laws 2012,
13 chapter 312, section 3, is repealed.

14 Sec. 6. Repeal

15 Laws 2008, chapter 243, section 6, as amended by Laws 2012, chapter
16 241, section 8, is repealed.

17 Sec. 7. Retroactive application

18 Sections 2, 3, 5 and 6 of this act apply retroactively to August 2,
19 2012.

20 Sec. 8. Effective date

21 Section 4 of this act is effective from and after December 31, 2024.