

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

SENATE BILL 1400

AN ACT

AMENDING SECTION 11-823, ARIZONA REVISED STATUTES; RELATING TO COUNTY WATER SUPPLY PROVISIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-823, Arizona Revised Statutes, is amended to
3 read:

4 11-823. Water supply; adequacy; exemptions

5 A. To protect the public health and safety, the general regulations
6 adopted by the board pursuant to section 11-821, subsection B, if approved by
7 unanimous vote of the board of supervisors, may provide that, except as
8 provided in subsection C and subsection D, paragraph 1 of this section, the
9 board shall not approve a final plat for a subdivision composed of subdivided
10 lands, as defined in section 32-2101, located outside of an active management
11 area, as defined in section 45-402, unless one of the following applies:

12 1. The director of water resources has determined that there is an
13 adequate water supply for the subdivision pursuant to section 45-108 and the
14 subdivider has included the report with the plat.

15 2. The subdivider has obtained a written commitment of water service
16 for the subdivision from a city, town or private water company designated as
17 having an adequate water supply by the director of water resources pursuant
18 to section 45-108.

19 B. If the board unanimously adopts the provision authorized by
20 subsection A of this section:

21 1. The board may include in the general regulations an exemption from
22 the provision for a subdivision that the director of water resources has
23 determined will have an inadequate water supply because the water supply will
24 be transported to the subdivision by motor vehicle or train if all of the
25 following apply:

26 (a) The board determines that there is no feasible alternative water
27 supply for the subdivision and that the transportation of water to the
28 subdivision will not constitute a significant risk to the health and safety
29 of the residents of the subdivision.

30 (b) If the water to be transported to the subdivision will be
31 withdrawn or diverted in the service area of a municipal provider as defined
32 in section 45-561, the municipal provider has consented to the withdrawal or
33 diversion.

34 (c) If the water to be transported is groundwater, the transportation
35 complies with the provisions governing the transportation of groundwater in
36 title 45, chapter 2, article 8.

37 (d) The transportation of water to the subdivision meets any
38 additional conditions imposed by the county.

39 2. The board shall promptly give written notice of the adoption of the
40 provision to the director of water resources, the director of environmental
41 quality and the state real estate commissioner. The notice shall include a
42 certified copy of the provision and any exemptions adopted pursuant to
43 paragraph 1 of this subsection. Water providers may be eligible to receive
44 monies in a water supply development fund, as otherwise provided by law.

1 3. EXCEPT AS PROVIDED IN PARAGRAPH 4 OF THIS SUBSECTION, the board
2 shall not rescind the provision or amend it in a manner that is inconsistent
3 with subsection A of this section. If the board amends the provision, it
4 shall give written notice of the amendment to the director of water
5 resources, the director of environmental quality and the state real estate
6 commissioner. The board may rescind an exemption adopted pursuant to
7 paragraph 1 of this subsection. If the board rescinds the exemption, it
8 shall give written notice of the rescission to the director of water
9 resources, the director of environmental quality and the state real estate
10 commissioner, and the board shall not readopt the exemption for at least five
11 years after the rescission becomes effective.

12 4. THE BOARD SHALL REVIEW THE PROVISION AND AFTER REVIEW MAY BY
13 UNANIMOUS VOTE RESCIND THE PROVISION WITHIN ONE YEAR AFTER THE FIFTH
14 ANNIVERSARY OF THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION AND SHALL
15 REVIEW THE PROVISION WITHIN ONE YEAR AFTER EVERY FIFTH ANNIVERSARY
16 THEREAFTER. IF THE BOARD RESCINDS THE PROVISION, THE BOARD SHALL GIVE
17 WRITTEN NOTICE OF THE RESCISSION TO THE DIRECTOR OF WATER RESOURCES, THE
18 DIRECTOR OF ENVIRONMENTAL QUALITY AND THE STATE REAL ESTATE COMMISSIONER.

19 ~~4.~~ 5. If the board approves a subdivision plat pursuant to subsection
20 A, paragraph 1 or 2 of this section, the board shall note on the face of the
21 plat that the director of water resources has reported that the subdivision
22 has an adequate water supply or that the subdivider has obtained a commitment
23 of water service for the proposed subdivision from a city, town or private
24 water company designated as having an adequate water supply pursuant to
25 section 45-108.

26 ~~5.~~ 6. If the board approves a subdivision plat pursuant to an
27 exemption authorized by paragraph 1 of this subsection or granted by the
28 director of water resources pursuant to section 45-108.02 or 45-108.03:

29 (a) The board shall give written notice of the approval to the
30 director of water resources and the director of environmental quality.

31 (b) The board shall include on the face of the plat a statement that
32 the director of water resources has determined that the water supply for the
33 subdivision is inadequate and a statement describing the exemption under
34 which the plat was approved, including a statement that the board or the
35 director of water resources, whichever applies, has determined that the
36 specific conditions of the exemption were met. If the director of water
37 resources subsequently informs the board that the subdivision is being served
38 by a water provider that has been designated by the director as having an
39 adequate water supply pursuant to section 45-108, the board shall record in
40 the county recorder's office a statement disclosing that fact.

41 C. Subsection A of this section does not apply to:

42 1. A proposed subdivision that the director of water resources has
43 determined will have an inadequate water supply pursuant to section 45-108 if
44 the director grants an exemption for the subdivision pursuant to section

1 45-108.02 and the exemption has not expired or the director grants an
2 exemption pursuant to section 45-108.03.

3 2. A proposed subdivision that received final plat approval from the
4 county before the requirement for an adequate water supply became effective
5 in the county if the plat has not been materially changed since it received
6 the final plat approval. If changes were made to the plat after the plat
7 received the final plat approval, the director of water resources shall
8 determine whether the changes are material pursuant to the rules adopted by
9 the director to implement section 45-108. If the county approves a plat
10 pursuant to this paragraph and the director of water resources has determined
11 that there is an inadequate water supply for the subdivision pursuant to
12 section 45-108, the county shall note this on the face of the plat.

13 D. If the subdivision is composed of subdivided lands as defined in
14 section 32-2101 outside of an active management area and the board has not
15 adopted a provision pursuant to subsection A of this section:

16 1. If the director of water resources has determined that there is an
17 adequate water supply for the subdivision pursuant to section 45-108 or if
18 the subdivider has obtained a written commitment of water service for the
19 subdivision from a city, town or private water company designated as having
20 an adequate water supply by the director of water resources pursuant to
21 section 45-108, the board shall note this on the face of the plat if the plat
22 is approved.

23 2. If the director of water resources has determined that there is an
24 inadequate water supply for the subdivision pursuant to section 45-108, the
25 board shall note this on the face of the plat if the plat is approved.

26 Sec. 2. Applicability; existing county adequate water supply
27 regulations; rescission; reenactment

28 For a county that enacted an adequate water supply requirement
29 provision pursuant to section 11-823, Arizona Revised Statutes, before the
30 effective date of this act, the provision shall be reviewed within one year
31 after the fifth anniversary of the effective date of this act. If the board
32 of supervisors by unanimous vote rescinds the provision pursuant to section
33 11-823, subsection B, paragraph 4, Arizona Revised Statutes, as added by this
34 act, the provision has no further effect. If the board of supervisors does
35 rescind the provision after the expiration of the time prescribed by this
36 section, the board shall give written notice to the director of water
37 resources, the director of environmental quality and the state real estate
38 commissioner as prescribed by section 11-823, subsection B, paragraph 4,
39 Arizona Revised Statutes, as added by this act.