



**ARIZONA STATE SENATE**  
*Fifty-Second Legislature, Second Regular Session*

FACT SHEET FOR S.B. 1268

adequate water supply requirements; municipalities

Purpose

Modifies statute regarding municipality adequate water supply requirements.

Background

In 1973, the Legislature enacted laws requiring all new subdivisions to submit plans on water adequacy to meet the needs of the subdivision. The 1980 Groundwater Code strengthened those requirements by designating five Active Management Areas (AMAs) around the state in areas where groundwater overdraft was most severe. In AMAs, developers are required to demonstrate the availability of a long-term water supply for new residential growth. Thus, any person who proposes to offer subdivided lands for sale or lease must demonstrate an assured water supply (AWS). An AWS means that: 1) water of sufficient quality and quantity is available to satisfy the needs of the proposed use for at least 100 years; 2) the proposed use is consistent with the management plan and achievement of the AMA management goal; and 3) the water provider has the financial capability to construct water delivery, storage and treatment systems (A.R.S. § 45-576).

Outside an AMA, the AWS rules do not apply. However, subdivision developers must obtain a determination from the Arizona Department of Water Resources (ADWR) regarding availability of an adequate water supply of at least 100 years to meet the development water demands before a plat can be approved by a city, town or county and before the Arizona Department of Real Estate will authorize the sale of lots (A.R.S. § 45-108). Developers are required to disclose any inadequacy of water supply potential to initial buyers, but are not precluded from selling lots unless the subdivision is located in a county or municipality that has adopted an ordinance requiring an adequate water supply.

Counties may adopt an ordinance requiring subdivisions to demonstrate an adequate water supply before a final plat can be approved. Upon receiving written notice from the Board of Supervisors of a county that has adopted an adequate water supply ordinance, the Director of ADWR must give written notice to the mayors of all cities and towns in the county. The cities and towns that receive the notice must comply with the county's adequate water supply ordinance (A.R.S. § 45-108). Statute currently allows cities and towns, located in counties that have not adopted an ordinance requiring an adequate water supply for subdivision approval, to adopt a city ordinance allowing the governing body to disapprove a subdivision (A.R.S. § 9-463.01). To date, Cochise and Yuma Counties and the Towns of Clarkdale and Patagonia have passed ordinances.

Statute defines *adequate water supply* as: 1) sufficient groundwater, surface water or effluent of adequate quality that will be continuously, legally and physically available to satisfy the water needs of the proposed use for at least 100 years; 2) the financial capability has been demonstrated to construct the water facilities necessary to make the supply of water available for the proposed use, including a delivery system and any storage facilities or treatment works. The Director may accept evidence of the construction assurances required to satisfy this requirement (A.R.S. § 45-108).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Removes the requirement that cities and towns comply with county ordinances requiring a proposed subdivision located outside of an AMA to demonstrate an adequate water supply before the final plat can be approved.
2. Removes the requirement that the Director give written notice to all cities and towns located within a county that has adopted an ordinance requiring an adequate water supply.
3. States that this act applies to cities and towns that received a notice before the effective date of this act that the county enacted an adequate water supply ordinance affecting the city or town, and those cities and towns are no longer bound by that county's ordinance.
4. Specifies that this act does not apply to any city or town that adopts its own adequate water supply ordinance.
5. Makes technical and conforming changes.
6. Becomes effective on the general effective date.

Prepared by Senate Research

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