

COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2586
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 45-576, Arizona Revised Statutes, is amended to
3 read:

4 45-576. Certificate of assured water supply; designated
5 cities, towns and private water companies;
6 exemptions; definition

7 A. Except as provided in subsections G and J of this section, a
8 person who proposes to offer subdivided lands, as defined in section
9 32-2101, for sale or lease in an active management area shall apply for and
10 obtain a certificate of assured water supply from the director ~~prior to~~
11 **BEFORE** presenting the plat for approval to the city, town or county in
12 which the land is located, where such is required, and ~~prior to~~ **BEFORE**
13 filing with the state real estate commissioner a notice of intention to
14 offer such lands for sale or lease, pursuant to section 32-2181, unless the
15 subdivider has obtained a written commitment of water service for the
16 subdivision from a city, town or private water company designated as having
17 an assured water supply pursuant to this section.

18 B. Except as provided in subsections G and J of this section, a
19 city, town or county may approve a subdivision plat only if the subdivider
20 has obtained a certificate of assured water supply from the director or the
21 subdivider has obtained a written commitment of water service for the
22 subdivision from a city, town or private water company designated as having
23 an assured water supply pursuant to this section. The city, town or county

1 shall note on the face of the approved plat that a certificate of assured
2 water supply has been submitted with the plat or that the subdivider has
3 obtained a written commitment of water service for the proposed subdivision
4 from a city, town or private water company designated as having an assured
5 water supply pursuant to this section.

6 C. Except as provided in subsections G and J of this section, the
7 state real estate commissioner may issue a public report authorizing the
8 sale or lease of subdivided lands only on compliance with either of the
9 following:

10 1. The subdivider, owner or agent has paid any activation fee
11 required under section 48-3772, subsection A, paragraph 7 and any
12 replenishment reserve fee required under section 48-3774.01, subsection A,
13 paragraph 2 and has obtained a certificate of assured water supply from the
14 director.

15 2. The subdivider has obtained a written commitment of water service
16 for the lands from a city, town or private water company designated as
17 having an assured water supply pursuant to this section and the subdivider,
18 owner or agent has paid any activation fee required under section 48-3772,
19 subsection A, paragraph 7.

20 D. The director shall designate private water companies in active
21 management areas that have an assured water supply. If a city or town
22 acquires a private water company that has contracted for central Arizona
23 project water, the city or town shall assume the private water company's
24 contract for central Arizona project water.

25 E. The director shall designate cities and towns in active
26 management areas where an assured water supply exists. If a city or town
27 has entered into a contract for central Arizona project water, the city or
28 town is deemed to continue to have an assured water supply until December
29 31, 1997. Commencing on January 1, 1998, the determination that the city
30 or town has an assured water supply is subject to review by the director
31 and the director may determine that a city or town does not have an assured
32 water supply.

1 F. The director shall notify the mayors of all cities and towns in
2 active management areas and the chairmen of the boards of supervisors of
3 counties in which active management areas are located of the cities, towns
4 and private water companies designated as having an assured water supply
5 and any modification of that designation within thirty days of the
6 designation or modification. If the service area of the city, town or
7 private water company has qualified as a member service area pursuant to
8 title 48, chapter 22, article 4, the director shall also notify the
9 conservation district of the designation or modification and shall report
10 the projected average annual replenishment obligation for the member
11 service area based on the projected and committed average annual demand for
12 water within the service area during the effective term of the designation
13 or modification subject to any limitation in an agreement between the
14 conservation district and the city, town or private water company. For
15 each city, town or private water company that qualified as a member service
16 area under title 48, chapter 22 and was designated as having an assured
17 water supply before January 1, 2004, the director shall report to the
18 conservation district on or before January 1, 2005 the projected average
19 annual replenishment obligation based on the projected and committed
20 average annual demand for water within the service area during the
21 effective term of the designation subject to any limitation in an agreement
22 between the conservation district and the city, town or private water
23 company. Persons proposing to offer subdivided lands served by those
24 designated cities, towns and private water companies for sale or lease are
25 exempt from applying for and obtaining a certificate of assured water
26 supply.

27 G. This section does not apply in the case of the sale of lands for
28 developments that are subject to a mineral extraction and processing permit
29 or an industrial use permit pursuant to sections 45-514 and 45-515.

30 H. The director shall adopt rules to carry out the purposes of this
31 section. On or before January 1, 2008, the rules shall provide for a
32 reduction in water demand for an application for a designation of assured

1 water supply or a certificate of assured water supply if a gray water reuse
2 system will be installed that meets the requirements of the rules adopted
3 by the department of environmental quality for gray water systems and if
4 the application is for a certificate of assured water supply, the land for
5 which the certificate is sought must qualify as a member land in a
6 conservation district pursuant to title 48, chapter 22, article 4. For the
7 purposes of this subsection, "gray water" has the same meaning prescribed
8 in section 49-201.

9 I. If the director designates a municipal provider as having an
10 assured water supply under this section and the designation lapses or
11 otherwise terminates while the municipal provider's service area is a
12 member service area of a conservation district, the municipal provider or
13 its successor shall continue to comply with the consistency with management
14 goal requirements in the rules adopted by the director under subsection H
15 of this section as if the designation was still in effect with respect to
16 the municipal provider's designation uses. When determining compliance by
17 the municipal provider or its successor with the consistency with
18 management goal requirements in the rules, the director shall consider only
19 water delivered by the municipal provider or its successor to the municipal
20 provider's designation uses. A person is the successor of a municipal
21 provider if the person commences water service to uses that were previously
22 designation uses of the municipal provider. Any groundwater delivered by
23 the municipal provider or its successor to the municipal provider's
24 designation uses in excess of the amount allowed under the consistency with
25 management goal requirements in the rules shall be considered excess
26 groundwater for purposes of title 48, chapter 22. For the purposes of this
27 subsection, "designation uses" means all water uses served by a municipal
28 provider on the date the municipal provider's designation of assured water
29 supply lapses or otherwise terminates and all recorded lots within the
30 municipal provider's service area that were not being served by the
31 municipal provider on that date but that received final plat approval from
32 a city, town or county on or before that date. Designation uses do not

1 include industrial uses served by an irrigation district under section
2 45-497.

3 J. Subsections A, B and C of this section do not apply to a person
4 who proposes to offer subdivided land for sale or lease in an active
5 management area if all the following apply:

6 1. The director issued a certificate of assured water supply for the
7 land to a previous owner of the land and the certificate was classified as
8 a type a certificate under rules adopted by the director pursuant to
9 subsection H of this section.

10 2. The director has not revoked the certificate of assured water
11 supply described in paragraph 1 of this subsection, and proceedings to
12 revoke the certificate are not pending before the department or a court.
13 The department shall post on its website a list of all certificates of
14 assured water supply that have been revoked or for which proceedings are
15 pending before the department or a court.

16 3. The plat submitted to the department in the application for the
17 certificate of assured water supply described in paragraph 1 of this
18 subsection has not changed.

19 4. Water service is currently available to each lot within the
20 subdivided land and the water provider listed on the certificate of assured
21 water supply described in paragraph 1 of this subsection has not changed.

22 5. The subdivided land qualifies as a member land under title 48,
23 chapter 22 and the subdivider has paid any activation fee required under
24 section 48-3772, subsection A, paragraph 7 and any replenishment reserve
25 fee required under section 48-3774.01, subsection A, paragraph 2.

26 6. The plat is submitted for approval to a city, town or county that
27 is listed on the department's website as a qualified platting authority.

28 K. Subsection J of this section does not affect the assignment of a
29 certificate of assured water supply as prescribed by section 45-579.

30 L. FOR LAND LOCATED IN THE PINAL ACTIVE MANAGEMENT AREA, THE INITIAL
31 TERM OF AN ANALYSIS OF ASSURED WATER SUPPLY ISSUED BY THE DIRECTOR IS TEN
32 YEARS. A HOLDER OF AN ANALYSIS OF ASSURED WATER SUPPLY PERTAINING TO LAND

1 LOCATED IN THE PINAL ACTIVE MANAGEMENT AREA MAY APPLY TO EXTEND THE
2 ANALYSIS BEFORE THE EXPIRATION DATE OF THE ANALYSIS. EXCEPT AS PROVIDED IN
3 SUBSECTION M OF THIS SECTION, THE DIRECTOR SHALL EXTEND THE ANALYSIS FOR AN
4 ADDITIONAL FIVE YEARS IF MATERIAL PROGRESS IN THE DEVELOPMENT OF THE LAND
5 DESCRIBED IN THE ANALYSIS HAS OCCURRED AT ANY TIME DURING THE CURRENT
6 ANALYSIS PERIOD. EACH ANALYSIS EXTENSION COMMENCES ON THE DATE THE
7 ANALYSIS OF ASSURED WATER SUPPLY WOULD HAVE OTHERWISE EXPIRED. FOR ANY
8 ANALYSIS UNDER THIS SUBSECTION:

9 1. FOR THE FIRST AND SECOND RENEWAL TERMS, THE DIRECTOR SHALL ACCEPT
10 ANY ONE OF THE FOLLOWING ACTIONS AS CONSTITUTING MATERIAL PROGRESS IN THE
11 DEVELOPMENT OF LAND, AND FOR THE THIRD AND LATER RENEWAL TERMS, THE
12 DIRECTOR SHALL ACCEPT ANY TWO OF THE FOLLOWING ACTIONS AS CONSTITUTING
13 MATERIAL PROGRESS IN THE DEVELOPMENT OF LAND:

14 (a) A CITY, TOWN OR COUNTY HAVING JURISDICTION HAS APPROVED THE
15 ZONING FOR OR ISSUED A USE PERMIT FOR THE LAND DESCRIBED IN THE ANALYSIS.

16 (b) A CITY, TOWN OR COUNTY HAVING JURISDICTION HAS APPROVED A MAJOR
17 AMENDMENT TO A ZONING OR USE APPROVAL FOR THE LAND DESCRIBED IN THE
18 ANALYSIS. A MAJOR AMENDMENT TO A ZONING APPROVAL IS AN AMENDMENT THAT
19 REQUIRES A HEARING AND NOTICE OF HEARING PURSUANT TO SECTION 9-462.04,
20 SUBSECTION A, PARAGRAPHS 4 AND 5 OR SECTION 11-813, SUBSECTION E,
21 PARAGRAPHS 1 AND 2, AS APPLICABLE.

22 (c) A PERSON OR ENTITY AND A CITY, TOWN OR COUNTY HAVING
23 JURISDICTION HAVE ENTERED INTO A DEVELOPMENT AGREEMENT PERTAINING TO THE
24 LAND DESCRIBED IN THE ANALYSIS.

25 (d) A PERSON OR ENTITY HAS INSTALLED WATER, SEWER, ROADWAY OR
26 DRAINAGE INFRASTRUCTURE TO PROVIDE SERVICE TO NOT LESS THAN A SUBSTANTIAL
27 PORTION OF THE LAND DESCRIBED IN THE ANALYSIS.

28 (e) THE DEPARTMENT OF ENVIRONMENTAL QUALITY OR A COUNTY HAVING
29 JURISDICTION HAS ISSUED AN APPROVAL TO CONSTRUCT OR APPROVAL OF
30 CONSTRUCTION FOR WATER INFRASTRUCTURE TO PROVIDE SERVICE TO NOT LESS THAN A
31 SUBSTANTIAL PORTION OF THE LAND DESCRIBED IN THE ANALYSIS.

1 (f) A PERSON OR ENTITY HAS INSTALLED WELLS THAT ARE ADEQUATE TO
2 SATISFY THE ESTIMATED WATER DEMAND ASSOCIATED WITH NOT LESS THAN A
3 SUBSTANTIAL PORTION OF THE LAND DESCRIBED IN THE ANALYSIS.

4 (g) A FEDERAL, STATE OR LOCAL GOVERNING BODY HAVING JURISDICTION HAS
5 ISSUED A PERMIT OR LICENSE THAT IS NECESSARY TO DEVELOP LAND AND THAT
6 APPLIES TO NOT LESS THAN A SUBSTANTIAL PORTION OF THE LAND DESCRIBED IN THE
7 ANALYSIS.

8 (h) A PERSON OR ENTITY AND A CITY, TOWN OR PRIVATE WATER COMPANY
9 HAVE ENTERED INTO AN AGREEMENT FOR WATER SERVICE TO NOT LESS THAN A
10 SUBSTANTIAL PORTION OF THE LAND DESCRIBED IN THE ANALYSIS AND THE AGREEMENT
11 INCLUDES WATER INFRASTRUCTURE CONSTRUCTION REQUIREMENTS.

12 (i) THE DEPARTMENT HAS ISSUED A CERTIFICATE OF ASSURED WATER SUPPLY
13 FOR NOT LESS THAN A SUBSTANTIAL PORTION OF THE LAND DESCRIBED IN THE
14 ANALYSIS.

15 (j) A PERSON OR ENTITY HAS COMPLETED A MASTER WATER, MASTER
16 WASTEWATER OR MASTER DRAINAGE PLAN FOR NOT LESS THAN A SUBSTANTIAL PORTION
17 OF THE LAND DESCRIBED IN THE ANALYSIS AND HAS FILED THE PLAN WITH A LOCAL
18 GOVERNING BODY HAVING JURISDICTION OR WITH A PRIVATE WATER COMPANY OR
19 PRIVATE SEWER COMPANY THAT IS OBLIGATED TO PROVIDE UTILITY SERVICE TO THE
20 LAND DESCRIBED IN THE ANALYSIS.

21 (k) A PERSON OR ENTITY HAS COMPLETED ANY OF THE FOLLOWING SURVEYS OR
22 REPORTS FOR NOT LESS THAN A SUBSTANTIAL PORTION OF THE LAND DESCRIBED IN
23 THE ANALYSIS AND HAS FILED THE SURVEY OR REPORT WITH A LOCAL GOVERNING BODY
24 HAVING JURISDICTION:

25 (i) ENVIRONMENTAL STUDY.

26 (ii) ENGINEERING SURVEY.

27 (iii) ARCHEOLOGICAL SURVEY.

28 (iv) TRAFFIC IMPACT ANALYSIS.

29 (v) GEOTECHNICAL SURVEY.

30 (vi) ECONOMIC IMPACT ANALYSIS.

31 (vii) LAND SURVEY.

1 2. AN APPLICANT FOR AN EXTENSION OF AN ANALYSIS MAY RELY ON THE
2 OCCURRENCE OF AN ACTION PRESCRIBED IN PARAGRAPH 1, SUBDIVISIONS (d) THROUGH
3 (k) OF THIS SUBSECTION AS PROOF OF MATERIAL PROGRESS IN THE DEVELOPMENT OF
4 THE LAND IN MULTIPLE EXTENSION APPLICATIONS IF, FOR EACH EXTENSION
5 APPLICATION, THE PRESCRIBED ACTION HAS OCCURRED FOR A DIFFERENT SUBSTANTIAL
6 PORTION OF THE LAND.

7 3. FOR THE PURPOSES OF THIS SUBSECTION:

8 (a) "CURRENT ANALYSIS PERIOD" MEANS, FOR A FIRST APPLICATION TO
9 EXTEND AN ANALYSIS, THE INITIAL TEN-YEAR ANALYSIS PERIOD AND, FOR A SECOND
10 AND ANY LATER APPLICATION TO EXTEND AN ANALYSIS, EITHER THE FIVE-YEAR
11 EXTENSION PERIOD OR THE FIFTEEN-YEAR EXTENSION PERIOD IN EFFECT AT THE TIME
12 AN APPLICANT FILES AN APPLICATION TO EXTEND THE ANALYSIS OF ASSURED WATER
13 SUPPLY.

14 (b) "SUBSTANTIAL PORTION OF THE LAND" MEANS THE LESSER OF ONE
15 HUNDRED SIXTY ACRES OR ONE-QUARTER OF THE DEVELOPABLE LAND DESCRIBED IN THE
16 ANALYSIS.

17 M. WHEN CONSIDERING AN APPLICATION TO EXTEND AN ANALYSIS OF ASSURED
18 WATER SUPPLY, THE DIRECTOR SHALL EXTEND THE ANALYSIS FOR AN ADDITIONAL
19 FIFTEEN YEARS IF BOTH OF THE FOLLOWING HAVE OCCURRED:

20 1. THE DEPARTMENT HAS ISSUED CERTIFICATES OF ASSURED WATER SUPPLY
21 FOR SUBDIVIDED LANDS FOR THE LAND DESCRIBED IN THE ANALYSIS AND EITHER THE
22 SUBDIVIDED LANDS CUMULATIVELY INCLUDE NOT LESS THAN FIFTY PERCENT OF THE
23 LAND THAT IS SUITABLE FOR DEVELOPMENT AND THAT IS DESCRIBED IN THE ANALYSIS
24 OR THE SUBDIVIDED LANDS INCLUDE A CUMULATIVE NUMBER OF RESIDENTIAL LOTS
25 THAT CONSTITUTE NOT LESS THAN FIFTY PERCENT OF THE NUMBER OF RESIDENTIAL
26 LOTS DESCRIBED IN THE ANALYSIS.

27 2. THE IMPROVED AND SOLD LOTS AT THE LAND DESCRIBED IN THE ANALYSIS
28 CUMULATIVELY INCLUDE NOT LESS THAN TWENTY-FIVE PERCENT OF THE LAND THAT IS
29 SUITABLE FOR DEVELOPMENT AND THAT IS DESCRIBED IN THE ANALYSIS OR THE
30 NUMBER OF THE IMPROVED AND SOLD RESIDENTIAL LOTS AT THE LAND DESCRIBED IN
31 THE ANALYSIS IS NOT LESS THAN TWENTY-FIVE PERCENT OF THE NUMBER OF
32 RESIDENTIAL LOTS DESCRIBED IN THE ANALYSIS. A LOT IS DEEMED TO BE IMPROVED

1 AND SOLD FOR THE PURPOSES OF THIS PARAGRAPH WHEN A BUILDING HAS BEEN
2 CONSTRUCTED ON THE LOT AND THE LOT HAS BEEN SOLD IN AN ARMS' LENGTH
3 TRANSACTION.

4 ~~1.~~ N. For the purposes of this section, "assured water supply" means
5 all of the following:

6 1. Sufficient groundwater, surface water or effluent of adequate
7 quality will be continuously available to satisfy the water needs of the
8 proposed use for at least one hundred years. Beginning January 1 of the
9 calendar year following the year in which a groundwater replenishment
10 district is required to submit its preliminary plan pursuant to section
11 45-576.02, subsection A, paragraph 1, with respect to an applicant that is
12 a member of the district, "sufficient groundwater" for the purposes of this
13 paragraph means that the proposed groundwater withdrawals that the
14 applicant will cause over a period of one hundred years will be of adequate
15 quality and will not exceed, in combination with other withdrawals from
16 land in the replenishment district, a depth to water of one thousand feet
17 or the depth of the bottom of the aquifer, whichever is less. In
18 determining depth to water for the purposes of this paragraph, the director
19 shall consider the combination of:

20 (a) ~~The existing rate of decline~~ PROJECTED WITHDRAWALS BY EXISTING
21 GROUNDWATER USERS, INCLUDING EXPECTED CHANGES IN FUTURE WITHDRAWAL PATTERNS
22 CAUSED BY:

23 (i) THE EXPECTED PRODUCTION, REUSE, OR RECHARGE OF EFFLUENT.

24 (ii) REASONABLY ANTICIPATED CHANGES IN AGRICULTURAL WATER USE OR
25 IRRIGATED ACREAGE, WHICH THE DIRECTOR SHALL DETERMINE IN CONSULTATION WITH
26 IRRIGATION DISTRICTS OR IRRIGATION GRANDFATHERED RIGHT HOLDERS.

27 (iii) OTHER FACTORS REASONABLY DETERMINED BY THE DIRECTOR TO AFFECT
28 FUTURE WITHDRAWALS BY EXISTING GROUNDWATER USERS.

29 (b) The proposed withdrawals.

30 (c) The expected water requirements of all recorded lots that are
31 not yet served water and that are located in the service area of a
32 municipal provider.

1 (d) IF THE PROPOSED USE IS WITHIN THE PHOENIX, PINAL OR TUCSON
2 ACTIVE MANAGEMENT AREAS, THE EFFECTS OF EXPECTED GROUNDWATER REPLENISHMENT
3 BY A CONSERVATION DISTRICT UNDER TITLE 48, CHAPTER 22, ARTICLE 4 WITHIN THE
4 APPLICABLE ACTIVE MANAGEMENT AREA, EXCEPT THAT THE DIRECTOR SHALL NOT
5 CONSIDER THAT EXPECTED GROUNDWATER REPLENISHMENT WHEN BOTH OF THE FOLLOWING
6 APPLY:

7 (i) THE DIRECTOR DETERMINES WHETHER TO DESIGNATE OR MAINTAIN THE
8 DESIGNATION OF A CITY, TOWN OR PRIVATE WATER COMPANY AS HAVING AN ASSURED
9 WATER SUPPLY.

10 (ii) THE SERVICE AREA OF THAT CITY, TOWN OR PRIVATE WATER COMPANY
11 DOES NOT QUALIFY AS A MEMBER SERVICE AREA OF A CONSERVATION DISTRICT
12 PURSUANT TO TITLE 48, CHAPTER 22, ARTICLE 4.

13 2. The projected groundwater use is consistent with the management
14 plan and achievement of the management goal for the active management area.

15 3. The financial capability has been demonstrated to construct the
16 water facilities necessary to make the supply of water available for the
17 proposed use, including a delivery system and any storage facilities or
18 treatment works. The director may accept evidence of the construction
19 assurances required by section 9-463.01, 11-823 or 32-2181 to satisfy this
20 requirement.

21 Sec. 2. Section 48-3772, Arizona Revised Statutes, is amended to
22 read:

23 48-3772. Duties and powers of district regarding replenishment

24 A. The district shall:

25 1. Establish annually the costs and expenses to replenish
26 groundwater pursuant to this article with respect to all parcels of member
27 lands and all member service areas located in each active management area,
28 including capital expenses, debt service expenses, the operation,
29 maintenance, replacement and administrative costs and expenses of the
30 district, replenishment reserve costs and expenses as provided in
31 subsection E of this section and reasonable reserves. Separate
32 calculations of costs and expenses shall be made for each active management

1 area in which member lands or member service areas are located and for each
2 membership category. Costs and expenses attributed by the district to
3 contract replenishment obligations shall not be included in these
4 calculations.

5 2. Provide for the payment of all costs and expenses to replenish
6 groundwater pursuant to this chapter and the payment of operation,
7 maintenance, replacement and administrative costs and expenses and debt
8 service expenses of the district.

9 3. Levy an annual replenishment assessment against each parcel of
10 member land pursuant to section 48-3778 and an annual replenishment tax
11 against each municipal provider that has a member service area pursuant to
12 section 48-3781 to pay the district's costs and expenses as established
13 pursuant to paragraph 1 of this subsection.

14 4. Levy a contract replenishment tax against municipal providers
15 that are parties to contracts authorized under subsection B, paragraph 9 of
16 this section to pay the district's costs and expenses to replenish
17 groundwater based on contract replenishment obligations.

18 5. Establish and maintain reserve accounts in amounts as may be
19 deemed necessary to perform the district's obligations under this article.

20 6. Fulfill all obligations under resolutions adopted pursuant to
21 subsection B, paragraph 10 of this section.

22 7. Levy an activation fee as follows:

23 (a) For subdivisions within member lands and member service areas
24 that are enrolled before May 6, 2004 and that had not been issued a public
25 report before August 12, 2005, the district shall levy a one-time
26 activation fee against each housing unit to be constructed within the
27 subdivision.

28 (b) For subdivisions within member lands and member service areas
29 that are enrolled on or after May 6, 2004, the district shall levy a ~~one-~~
30 ~~time~~ ONETIME activation fee against each housing unit to be constructed
31 within the subdivision.

1 (c) The activation fee shall be paid to the district according to
2 either of the following schedules, whichever the subdivider elects:

3 (i) Paid in full before issuance of a public report for each real
4 estate subdivision identified in subdivision (a) or (b) of this paragraph.

5 (ii) One-half paid before issuance of a public report for each real
6 estate subdivision identified in subdivision (a) or (b) of this paragraph
7 and the remaining amount paid no later than one year after the issuance of
8 the public report. The total amount of the activation fee must be the
9 amount of the activation fee in effect at the time of the initial payment.
10 Payment of the initial one-half of the activation fee pursuant to this item
11 constitutes sufficient payment of applicable fees for notice of intent to
12 subdivide as prescribed in section 32-2181, subsection C and for issuance
13 of a public report as prescribed in section 32-2183, subsection G and
14 section 45-576, subsection C, except that on failure to pay the remaining
15 amount, the commissioner shall suspend the public report for that
16 subdivision pursuant to section 32-2183.

17 (d) The activation fee shall be established annually by the
18 district. The amount of the activation fee to be paid to the district under
19 subdivision (c) of this paragraph must be the amount of the activation fee
20 in effect at the time of payment. Revenues from the activation fee
21 together with revenues from other sources that are legally available to the
22 district for those uses shall be used by the district to acquire, lease or
23 exchange water or water rights and develop infrastructure necessary for the
24 district to perform its replenishment obligations.

25 8. For any year, set all of its rates and charges associated with
26 the acquisition, lease or exchange of water or water rights and development
27 of infrastructure necessary for the district to perform its replenishment
28 obligations, other than the annual membership dues established pursuant to
29 section 48-3779, so that the total projected revenues from revenue sources
30 other than the annual membership dues, that are legally available to the
31 district in that year to pay costs associated with the acquisition, lease
32 or exchange of water or water rights and development of infrastructure

1 necessary for the district to perform its replenishment obligations, shall
2 be at least three times the total projected revenues from the annual
3 membership dues in that year. For the purposes of this paragraph, costs
4 associated with the acquisition, lease or exchange of water or water rights
5 do not include the annual costs associated with delivery of water for
6 replenishment purposes.

7 B. The district may:

8 1. Acquire, develop, construct, operate, maintain, replace and
9 acquire permits for water storage, storage facilities and recovery wells
10 for replenishment purposes.

11 2. Acquire, transport, hold, exchange, own, lease, store or
12 replenish water, except groundwater withdrawn from an active management
13 area, subject to the provisions of title 45, for the benefit of member
14 lands and member service areas.

15 3. Acquire, hold, exchange, own, lease, retire or dispose of water
16 rights for the benefit of member lands and member service areas.

17 4. Require municipal providers to provide such information, in such
18 form and within the time limits prescribed by the district, as may be
19 necessary to carry out the purpose of this chapter.

20 5. Levy and collect assessments, fees, charges, taxes and other
21 revenues as are provided in this chapter for the financing of replenishment
22 activities.

23 6. Contract for or perform feasibility studies of water storage,
24 storage facilities and recovery wells for replenishment purposes.

25 7. Acquire real and personal property for water storage, storage
26 facilities and recovery wells for replenishment purposes by purchase,
27 lease, donation, dedication, exchange or other lawful means.

28 8. Use any facilities and any excess storage capacity of any state
29 demonstration projects undertaken pursuant to title 45, chapter 3.1 for
30 water storage for replenishment purposes.

31 9. Subject to subsection G of this section, contract with any
32 municipal provider having a member service area to replenish groundwater on

1 behalf of the municipal provider and with respect to the member service
2 area in an amount in excess of the sum of the service area replenishment
3 obligations applicable to the member service area for all years in which
4 the district has not completed the replenishment of the groundwater
5 replenishment obligation for the member service area.

6 10. Adopt resolutions granting water availability status to a member
7 service area of a city, town or private water company and committing to
8 replenish a specified average annual volume of water in a location where
9 the city, town or private water company may physically access the water for
10 service to its customers, if all of the following apply:

11 (a) The district has reviewed its requirements for transportation of
12 central Arizona project water, its contracts, subcontracts, letter
13 agreements, excess water contracts, and other contractual obligations and
14 its member service area and member land requirements and has determined
15 that the district can meet those obligations and that capacity remains in
16 the central Arizona project to meet the obligations undertaken through the
17 resolution.

18 (b) The resolution acknowledges that the commitment to replenish the
19 specified average annual volume of water in the location cited in the
20 resolution shall be a permanent obligation of the district, unless one of
21 the following applies:

22 (i) A permanent substitute supply of water is found for the city,
23 town or private water company and the substitution is approved by the
24 director of water resources, thus terminating the water availability status
25 of the member service area.

26 (ii) The requirements of section 45-576.07, subsection A are not
27 met, and thus the director of water resources does not issue an order
28 granting or maintaining the city, town or private water company as having
29 an assured water supply based in whole or in part on section 45-576.07. If
30 no order is issued within two years of the district adopting the
31 resolution, the resolution may be repealed, and the district shall be
32 relieved of all obligations under the resolution.

1 (c) The average annual volume of water specified in the resolution,
2 when added to the average annual volume of water specified in all other
3 resolutions adopted pursuant to this paragraph, does not exceed twenty
4 thousand acre-feet.

5 (d) The district has entered into an agreement with the city, town
6 or private water company under which the city, town or private water
7 company will hold for the district's future use, and provide to the
8 district when needed, sufficient water to meet the obligations undertaken
9 by the district through the resolution.

10 (e) The district determines that the obligations undertaken by the
11 district through the resolution will not increase annual replenishment
12 assessment rates or costs to central Arizona project contract and
13 subcontract holders and its member service areas and member lands.

14 (f) The director of water resources has found, pursuant to section
15 45-576.07, subsection H, that the district has the capability to grant
16 water availability status to member service areas.

17 11. Provide in resolutions adopted pursuant to paragraph 10 of this
18 subsection that the district may fulfill its obligations under the
19 resolution in any year by directly delivering to the city, town or private
20 water company the water that otherwise would have been replenished pursuant
21 to the resolution, if all of the following apply:

22 (a) The district has reviewed its requirements for transportation of
23 central Arizona project water, its contracts, subcontracts, letter
24 agreements, excess water contracts, ~~and~~ and other contractual
25 obligations, ~~AND~~ AND its member service area and member land requirements and
26 has determined that the district can meet those obligations and that
27 capacity remains in the central Arizona project to make direct deliveries
28 pursuant to this paragraph.

29 (b) The district determines that the delivery will not increase
30 annual replenishment assessment rates or costs to central Arizona project
31 contract and subcontract holders, its member service area and member lands.

1 12. Enter into agreements with a city, town or private water company
2 that will have water made available to it through a resolution adopted
3 pursuant to paragraph 10 of this subsection and under which the city, town
4 or private water company compensates the district for the costs and fair
5 value of the water supply provided by the district.

6 13. Issue revenue bonds pursuant to article 3 of this chapter to
7 fund the costs and expenses of the district for the acquisition, lease or
8 exchange of water or water rights and the development of infrastructure
9 necessary for the district to perform its replenishment obligations subject
10 to the following:

11 (a) The principal of, interest and premiums, if any, on revenue
12 bonds issued pursuant to article 3 of this chapter to acquire, lease or
13 exchange water or water rights and develop infrastructure necessary for the
14 district to perform its replenishment obligations are not payable from any
15 revenues of the district other than revenues generated or collected
16 pursuant to this article that are legally available to the district for
17 those purposes and revenues from the investment of the proceeds of the
18 bonds.

19 (b) The district may not use the proceeds of the bonds to acquire or
20 lease:

21 (i) Groundwater, as defined in section 45-101, except as expressly
22 authorized in sections 45-547, 45-553 and 45-554.

23 (ii) Surface water, as defined in section 45-101, that is the
24 subject of a general adjudication pursuant to title 45, chapter 1, article
25 9.

26 (c) ~~Nothing in~~ subdivision (b) of this paragraph ~~prohibits~~ DOES NOT
27 PROHIBIT the district from acquiring or leasing central Arizona project
28 water.

29 14. Except as provided in section 48-3780.01, subsection B, in
30 addition to any other assessments, fees, charges or taxes levied and
31 collected under this chapter, or under any declaration, contract or
32 agreement entered into under this chapter, charge annual dues for

1 membership pursuant to section 48-3779 against each parcel of member land
2 and each municipal provider that has a member service area.

3 C. The functions of the district under subsection B, paragraph 1 of
4 this section may be performed on behalf of the district by other persons
5 under contract with the district.

6 D. The capital costs of the facilities of any state demonstration
7 projects used by the district pursuant to subsection B, paragraph 8 of this
8 section shall not be included in the capital costs and expenses established
9 by the district under subsection A, paragraph 1 of this section.

10 E. The district shall establish and maintain a replenishment reserve
11 as follows:

12 1. The district shall calculate a reserve target for each of the
13 three active management areas within the district and shall identify the
14 reserve target in the plan of operation prepared pursuant to section
15 45-576.02. The reserve target for each active management area shall be
16 calculated as follows:

17 (a) ~~Establish~~ FOR EACH ACTIVE MANAGEMENT AREA, ADD TOGETHER the
18 projected ~~one hundred year~~ replenishment obligation for each ~~active~~
19 ~~management area~~ OF THE ONE HUNDRED YEARS FOLLOWING SUBMISSION OF THE PLAN
20 OF OPERATION. For the purposes of this subdivision, each active management
21 area's projected ~~one hundred year~~ replenishment obligation does not include
22 replenishment obligations under resolutions adopted pursuant to subsection
23 B, paragraph 10 of this section or replenishment obligations for category 2
24 member lands.

25 (b) Subtract from the SUM OF THE active management area's projected
26 ~~one hundred year~~ replenishment obligation OVER THE ONE HUNDRED YEAR PERIOD
27 AND the sum of the following volumes of water derived from sources
28 identified in the plan as water that the district plans to use to meet its
29 replenishment obligations for that active management area:

30 (i) The annual volume of each nondeclining, long-term municipal and
31 industrial subcontract for central Arizona project water multiplied by one
32 hundred.

1 (ii) The annual volume of water under leases or contracts that can
2 be made physically and legally available to the district consistent with
3 the rules adopted pursuant to section 45-576, subsection H, multiplied by
4 the number of years, not to exceed one hundred, in which the water is to be
5 made available to the district. The water need not be continuously
6 available to be included in this item. A lease or contract shall not be
7 considered under this item if the water to be made available under the
8 lease or contract is for a term of less than twenty years.

9 (iii) The total volume of groundwater that the district plans to
10 transport to the active management area during the next one hundred years
11 as allowed by title 45, chapter 2, article 8.1.

12 (iv) The total volume of all sources of water not identified in
13 items (i), (ii) or (iii) of this subdivision that will not be held by the
14 district under a lease or contract. Volumes to be included under this item
15 must be consistent with the rules adopted by the director pursuant to
16 section 45-576, subsection H.

17 (c) Multiply the result from subdivision (b) of this paragraph by
18 twenty ~~per cent~~ PERCENT. The result is the reserve target for the active
19 management area.

20 2. The reserve target for an active management area may be adjusted
21 by the district, subject to the approval of the director of water
22 resources, based on changes in either of the following:

23 (a) The active management area's projected one hundred year
24 replenishment obligation.

25 (b) The volumes of water identified in the plan of operation
26 prepared pursuant to section 45-576.02 as water that the district plans to
27 use to meet its replenishment obligations for that active management area.

28 3. The district shall include a replenishment reserve charge in the
29 annual replenishment assessment levied against all parcels of category 1
30 member land as provided in section 48-3774.01 and in the annual
31 replenishment tax levied against all municipal providers that have member
32 service areas as provided in section 48-3780.01. The replenishment reserve

1 charge for each active management area is established annually by the
2 district based on the reserve target for that active management area.

3 4. The district shall levy a replenishment reserve fee against
4 category 1 member lands pursuant to section 48-3774.01 and against member
5 service areas pursuant to section 48-3780.01. For category 1 member lands
6 the fee is equal to twice the applicable replenishment reserve charge
7 multiplied by the total projected average annual replenishment obligation
8 for the member lands as reported by the director of water resources
9 pursuant to section 45-578, subsection F. For member service areas the fee
10 is equal to twice the applicable replenishment reserve charge multiplied by
11 the excess groundwater increment. With the approval of the district and
12 the director of water resources, long-term storage credits as defined in
13 section 45-802.01 may be assigned to the district's replenishment reserve
14 subaccount in lieu of paying the replenishment reserve fee.

15 5. The district shall use replenishment reserve charges and
16 replenishment reserve fees collected within each active management area
17 together with all interest earned on the charges and fees to store water in
18 that active management area in advance of groundwater replenishment
19 obligations for the purpose of developing long-term storage credits as
20 defined in section 45-802.01 that shall be credited to the replenishment
21 reserve subaccount for that active management area as provided in section
22 45-859.01.

23 6. Beginning on January 1, 2030 or earlier, on approval of the
24 director of water resources pursuant to section 45-859.01, subsection K,
25 the district may transfer credits from a replenishment reserve subaccount
26 to a conservation district account as provided in section 45-859.01,
27 **SUBSECTION F** to satisfy its groundwater replenishment obligations.

28 7. If the district transfers credits from the replenishment reserve
29 subaccount for an active management area pursuant to section 45-859.01,
30 subsection E, the district shall include in the annual replenishment
31 assessment levied against all parcels of category 1 member land in that
32 active management area and, except as provided in section 48-3780.01,

1 subsection B, in the annual replenishment tax levied against all municipal
2 providers that have member service areas in that active management area a
3 reserve replacement component to fund the replacement of the transferred
4 credits. The district shall use all monies from the reserve replacement
5 component collected within an active management area together with all
6 interest earned on the monies to develop long-term storage credits as
7 defined in section 45-802.01 within that active management area to be
8 credited to the replenishment reserve subaccount for that active management
9 area as provided in section 45-859.01.

10 8. For the purposes of establishing and maintaining the
11 replenishment reserve, the district shall have access to excess central
12 Arizona project water equivalent to but ~~no~~ NOT more than the access the
13 Arizona water banking authority has for the purposes specified in section
14 45-2401, subsection H, paragraph 2.

15 F. Groundwater replenished by the district pursuant to a contract to
16 replenish groundwater under subsection B, paragraph 9 of this section shall
17 not be credited to a replenishment reserve subaccount established under
18 section 45-859.01.

19 G. The district shall not enter into a contract authorized under
20 subsection B, paragraph 9 of this section unless the district has
21 determined that the contract will not adversely affect the district's
22 ability to fulfill its obligations under this chapter. For each contract
23 entered into under subsection B, paragraph 9 of this section, the district
24 shall perform its contract replenishment obligations in the active
25 management area in which the service area of the municipal provider that is
26 the party to the contract is located.

27 H. If the district replenishes groundwater on behalf of a municipal
28 provider pursuant to a contract to replenish groundwater under subsection
29 B, paragraph 9 of this section, the amount of groundwater so replenished
30 shall be a replenishment credit to the municipal provider that may be
31 applied by the municipal provider on notice to the district to reduce the

1 service area replenishment obligations applicable to the municipal
2 provider.

3 I. In the Phoenix active management area, the district, to the
4 extent reasonably feasible, shall replenish groundwater in the east portion
5 of the active management area and in the west portion of the active
6 management area in the approximate proportion that the groundwater
7 replenishment obligation attributable in a particular year to member lands
8 and member service areas located in the east portion of the active
9 management area bears to the groundwater replenishment obligation
10 attributable in that year to member lands and member service areas located
11 in the west portion of the active management area. For the purposes of
12 this subsection, the boundary between the east Salt river valley subbasin
13 and the west Salt river valley subbasin is the boundary between the east
14 and west portions of the active management area.

15 J. The costs and expenses charged by the district to an active
16 management area water district established under chapter 28 of this title
17 for delivery of surplus central Arizona project water to such active
18 management area water district for replenishment purposes shall not exceed
19 the costs and expenses for delivery of such water that are or would be
20 included by the district in the costs and expenses of replenishment for
21 member lands and member service areas within the active management area in
22 which such active management area water district is situated."

23 Amend title to conform

And, as so amended, it do pass

GAIL GRIFFIN
CHAIRMAN

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