

REFERENCE TITLE: groundwater savings facilities; storage credits

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

HB 2542

Introduced by
Representative Bowers

AN ACT

AMENDING SECTION 45-852.01, ARIZONA REVISED STATUTES; RELATING TO
UNDERGROUND WATER STORAGE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-852.01, Arizona Revised Statutes, is amended
3 to read:

4 45-852.01. Long-term storage accounts

5 A. The director shall establish one long-term storage account for
6 each person holding long-term storage credits. The director shall
7 establish subaccounts within the long-term storage account according to
8 each active management area, irrigation non-expansion area, groundwater
9 basin or groundwater subbasin in which the person's stored water is
10 located. The long-term storage account shall be further subdivided by
11 type of water, if the person holds long-term storage credits for more than
12 one type of water.

13 B. Water stored pursuant to a water storage permit at a storage
14 facility may be credited to a long-term storage account if the director
15 determines that all of the following apply:

16 1. EITHER:

17 (a) The water that was stored was water that cannot reasonably be
18 used directly.

19 (b) THE WATER WAS STORED IN A GROUNDWATER SAVINGS FACILITY AND THE
20 DIRECTOR DETERMINES THAT THE STORAGE PROVIDES A WATER MANAGEMENT BENEFIT
21 TO THE ACTIVE MANAGEMENT AREA WHERE THE WATER WAS STORED.

22 2. If the stored water was stored at a storage facility within an
23 active management area, either:

24 (a) The water would not have been naturally recharged within the
25 active management area.

26 (b) If the water was stored at a managed underground storage
27 facility that has been designated as a facility that could add value to a
28 national park, national monument or state park and the water stored is
29 effluent, the water stored is water that could have been used or disposed
30 of by the storer by means other than discharging the effluent into the
31 stream.

32 3. The stored water was not recovered on an annual basis pursuant
33 to section 45-851.01.

34 C. The director shall credit ninety-five ~~per cent~~ PERCENT of the
35 recoverable amount of stored water that meets the requirements of
36 subsection B of this section to the storer's long-term storage account,
37 except that:

38 1. If the water was stored at a managed underground storage
39 facility that had not been designated at the time of storage as a facility
40 that could add value to a national park, national monument or state park
41 and the water stored is effluent, the director shall credit to the
42 storer's long-term storage account fifty ~~per cent~~ PERCENT of the
43 recoverable amount of water that meets the requirements of subsection B of
44 this section. For storage of effluent in a managed underground storage
45 facility that is located in a recreational corridor channelization

1 district established pursuant to title 48, chapter 35, the director may
2 increase the storage credits earned from fifty ~~per cent~~ PERCENT to
3 ninety-five ~~per cent~~ PERCENT if both of the following apply:

4 (a) The effluent was not discharged into the stream where the
5 facility is located before the permit application for that facility was
6 filed.

7 (b) The director determines that the storage of effluent in the
8 facility will provide a greater benefit to aquifer conditions in the
9 active management area or, if outside an active management area, to the
10 groundwater basin than would accrue to the active management area or
11 groundwater basin if the effluent is used or disposed of in another
12 manner.

13 2. If the water was stored at a groundwater savings facility and
14 the storer has not met the burden of proving that one hundred ~~per cent~~
15 PERCENT of the in lieu water was used on a gallon-for-gallon substitute
16 basis for groundwater, the director shall credit to the storer's long-term
17 storage account only the percentage of the in lieu water that meets the
18 requirements of subsection B of this section and that was proven to the
19 director's satisfaction as being used on a gallon-for-gallon substitute
20 basis for groundwater.

21 3. The director shall credit to the storer's long-term storage
22 account ninety ~~per cent~~ PERCENT of the recoverable amount of the water
23 that meets the requirements of subsection B of this section if all of the
24 following apply:

25 (a) The stored water was central Arizona project water that
26 qualifies as water that cannot reasonably be used directly due solely to
27 the exclusion of groundwater withdrawn by the storer for mineral
28 extraction or metallurgical processing under section 45-802.01, paragraph
29 22, subdivision (c).

30 (b) The storer was engaged in mineral extraction and metallurgical
31 processing within an initial active management area on or before January
32 1, 2011.

33 (c) All exterior boundaries of the storage facility that is used to
34 store the stored water are more than twenty miles from a well owned by the
35 storer on January 1, 2012 and that well is not an exempt well and any one
36 or more of the following apply:

37 (i) The well is an existing well as defined in section 45-591,
38 paragraph 1.

39 (ii) The department has issued a permit for the well under section
40 45-599, subsection C.

41 (iii) The well was drilled pursuant to a mineral extraction and
42 metallurgical processing permit issued by the department under section
43 45-514.

44 4. Except as otherwise provided in paragraphs 1, 2 and 3 of this
45 subsection, the director shall credit to the storer's long-term storage

1 account or conservation district account one hundred ~~per cent~~ PERCENT of
2 the recoverable amount of water that meets the requirements of subsection
3 B of this section if any of the following applies:

4 (a) The water stored was effluent.

5 (b) The water was stored in an active management area and the
6 stored water is water from outside the active management area that would
7 not have reached the active management area without the efforts of the
8 holder of the long-term storage credits.

9 (c) The water was stored outside an active management area and the
10 stored water is water from outside the groundwater basin in which the
11 water was stored that would not have reached the groundwater basin without
12 the efforts of the holder of the long-term storage credits.

13 (d) The water was stored for purposes of establishing and
14 maintaining a replenishment reserve pursuant to section 48-3772,
15 subsection E.

16 (e) The water was stored for replenishment purposes pursuant to
17 section 48-3771 and credited directly to a conservation district account
18 pursuant to section 45-859.01, subsection E.

19 D. The director shall credit a person's long-term storage account
20 by the amount of long-term storage credits assigned to that person by
21 another holder of long-term storage credits pursuant to section 45-854.01.

22 E. The director shall debit the appropriate subaccount of a
23 person's long-term storage account:

24 1. One hundred ~~per cent~~ PERCENT of the amount of stored water that
25 the holder of the long-term storage credits has recovered during the
26 calendar year pursuant to the permit.

27 2. The amount of long-term storage credits that the person has
28 assigned to another person or transferred to a master replenishment
29 account, conservation district account or water district account.

30 3. If the water was stored in an active management area, the amount
31 of water during the calendar year that migrates to a location outside the
32 active management area or to a location within the active management area
33 where it cannot be beneficially used within a reasonable period of time by
34 persons other than the storer with rights to withdraw and use groundwater.

35 4. If the water was stored outside of an active management area,
36 the amount of water during the calendar year that migrates to a location
37 outside the groundwater basin in which the storage facility is located or
38 to a location in the groundwater basin where it cannot be beneficially
39 used within a reasonable period of time by persons other than the storer
40 with rights to withdraw and use groundwater.

41 5. The amount of long-term storage credits that the storer,
42 pursuant to section 45-853.01, subsection B, has applied to offset
43 groundwater withdrawn or used in excess of the storer's per capita
44 municipal conservation requirements under the second management plan.

1 6. The amount of long-term storage credits that are held by the
2 Arizona water banking authority and that the authority has chosen to
3 extinguish.

4 F. To the extent the total amount of water withdrawn by a person
5 from wells designated as recovery wells pursuant to section 45-834.01
6 during a calendar year exceeds the amount of stored water recovered by the
7 person on an annual basis pursuant to section 45-851.01 and the amount of
8 long-term storage credits recovered by the person, the excess amount of
9 water recovered shall be considered groundwater withdrawn pursuant to
10 chapter 2 of this title.

11 Sec. 2. Emergency

12 This act is an emergency measure that is necessary to preserve the
13 public peace, health or safety and is operative immediately as provided by
14 law.