



# ARIZONA HOUSE OF REPRESENTATIVES

## **HB2545: Amendments: Colorado river drought contingency**

**PRIME SPONSOR:** Representative Bowers, LD 25

**BILL STATUS:** [Natural Resources, Energy and Water](#)

### **Overview**

Outlines various statutory changes relating to waterBUD, effluent and long-term storage credit (LTSC) exchanges. Provides funding for system conservation and groundwater and irrigation efficiency projects.

### **History**

#### ***Conservation***

In 2014, the United States Bureau of Reclamation signed an agreement with water authorities in four of the Colorado River basin states to jointly fund voluntary water conservation projects to conserve Colorado River water in Lake Mead and Lake Powell. The Pilot System Conservation Program was created to increase storage levels by a reduction of consumptive use for the benefit of the Colorado River system ([www.usbr.gov](http://www.usbr.gov)).

[Laws 2017, Chapter 305](#) appropriated \$2 million per year to the Arizona Department of Water Resources (ADWR) in FYs 2018-2020 as financial contributions for efforts by Colorado River water users to conserve water in Lake Mead to reduce the likelihood of lake elevations dropping to levels that could result in reductions to Colorado River allocations.

#### ***Groundwater Withdrawal Fees***

An annual groundwater withdrawal fee is statutorily imposed in the Phoenix, Tucson and Pinal Active Management Areas (AMAs) for each acre-foot (AF) of groundwater that is withdrawn. For water banking purposes, the withdrawal fee in the Phoenix and Tucson AMAs is \$2.50 per AF, and in the Pinal AMA, the withdrawal fee must be no more than \$2.50 per AF ([A.R.S. § 45-611](#)).

#### ***WaterBUD & Effluent***

Current statute allows LTSCs to be accrued for water that is stored in an underground storage facility (USF). To accrue a LTSC, the stored water must be *water that cannot reasonably be used directly* (waterBUD) in an AMA, and the water cannot be recovered on an annual basis ([A.R.S. § 45-852.01](#)).

Current statute permits effluent to be considered *water that cannot reasonably be used directly* (waterBUD) until 2025. Effluent currently receives LTSCs at 50% of the amount stored at a recharge facility, and 100% for effluent stored at a USF or groundwater savings facility (GSF) designated to add value to a national park, monument or state park. Additionally, statute prohibits LTSCs for stored effluent from being used to demonstrate an assured or adequate water supply.

#### ***Credit Exchanges***

Statute requires the Arizona Water Banking Authority (AWBA) to distribute or extinguish LTSCs only within the AMA that the LTSCs were created in. The AWBA is permitted to distribute or extinguish LTSCs for the following purposes: 1) to meet the needs of the Central Arizona Water Conservation District's municipal and industrial subcontractors during a shortage or disruption of canal operations; 2) to implement water rights settlements with tribal communities; or 3) to meet various

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other water management objectives, as requested by the Director of ADWR ([A.R.S. § 45-2457](#)). There is a \$250 fee for these exchanges.

### **Provisions**

#### ***Arizona System Conservation Fund***

1. Establishes the Arizona System Conservation Fund consisting of legislative appropriations, grants and contributions from private and public entities. (Sec. 1)
2. Appropriates \$30 million to the System Conservation Fund from the state GF in FY 2020. (Sec. 19)
3. Allows the Director of ADWR to expend monies from the System Conservation Fund to contract with Colorado River water users in Arizona to forgo water deliveries to create system conservation. Exempts these contracts from the Arizona Procurement Code. (Sec. 1)
4. Requires the system conservation created from using the System Conservation Fund to provide for Colorado River water being conserved through a verified reduction in consumptive use in order to decrease the likelihood of lake elevations dropping to levels that could result in reductions to Arizona's Colorado River allocation. (Sec. 1)
5. Requires system conservation to be created for the benefit of the Colorado River system and not for the benefit of any individual user. (Sec. 1)
6. Requires the Director of ADWR to submit an annual report, beginning July 1, 2021, detailing fund expenditures and the volume of water that was conserved in Lake Mead during the prior FY to the Governor, the President of the Senate and the Speaker of the House of Representatives. (Sec. 1)
7. Repeals the System Conservation Fund on April 1, 2027. (Sec. 2)
8. Requires the State Treasurer, on notice from the Director of ADWR, to invest and divest any monies deposited in the State Treasury and to credit monies earned from investment to the System Conservation Fund. (Sec. 1)
9. Exempts fund monies from lapsing. (Sec. 1,19)
10. Specifies the Director of ADWR administers the System Conservation Fund. (Sec. 1)

#### ***Groundwater & Irrigation Efficiency Projects Fund***

11. Establishes the Temporary Groundwater and Irrigation Efficiency Projects Fund consisting of legislative appropriations, groundwater withdrawal fees from the Pinal AMA, federal grants and monies deposited by irrigation districts in the Pinal AMA and the Harquahala Irrigation Non-Expansion Area (INA). (Sec. 7)
12. Specifies the purpose of the Groundwater and Irrigation Efficiency Projects Fund is to fund projects for the construction and rehabilitation of wells and related infrastructure for the withdrawal and efficient delivery of groundwater by irrigation districts in the Pinal AMA and the Harquahala INA. (Sec. 7)
13. Appropriates \$5 million to the Groundwater and Irrigation Efficiency Projects Fund from the state GF in FY 2019. (Sec. 18)
14. Suspends the current groundwater withdrawal fee of not more than \$2.50 per AF in the Pinal AMA for water banking purposes in Calendar Year (CY) 2020-2026. (Sec. 4)
15. Establishes a groundwater withdrawal fee of not more than \$2.50 per AF in the Pinal AMA for groundwater and irrigation efficiency projects in CY 2020-2026. (Sec. 4)

16. Requires the monies collected from the newly established groundwater withdrawal fee to be deposited into the Groundwater and Irrigation Efficiency Projects Fund and used only to finance permitted projects in the Pinal AMA. (Sec. 5,6,7)
17. Allows the Director of ADWR to:
  - a. accept and deposit monies, grants, gifts, contributions and devises into the Groundwater and Irrigation Efficiency Projects Fund;
  - b. grant monies from the Groundwater and Irrigation Efficiency Projects Fund to irrigation districts in the Pinal AMA and the Harquahala Irrigation District; and
  - c. give funding preference to wells and related infrastructure that would be used to recover stored water. (Sec. 7)
18. Requires monies remaining in the fund on June 30, 2027 to be proportionally distributed to the fund's contributors by December 31, 2027. (Sec. 7)
19. Requires the proportion of the uncommitted monies from the groundwater withdrawal fee to be deposited into the Arizona Water Banking Fund to be used in the manner prescribed by statute. (Sec. 7)
20. Repeals the Groundwater and Irrigation Efficiency Projects Fund on April 1, 2028. (Sec. 8)
21. Requires the Director of ADWR to submit an annual report detailing fund expenditures during the prior FY to the Speaker of the House of Representatives and the President of the Senate. (Sec. 7)
22. Specifies monies remaining in the Groundwater and Irrigation Efficiency Projects Fund at the end of each FY do not revert to the state GF and are exempt from lapsing. (Sec. 7,18)
23. Requires the State Treasurer, on notice from the Director of ADWR, to invest and divest any monies deposited in the State Treasury and to credit monies earned from investment to the Groundwater and Irrigation Efficiency Projects Fund. (Sec. 7)
24. Specifies the Director of ADWR administers the Groundwater and Irrigation Efficiency Projects Fund. (Sec. 7)

#### ***WaterBUD/Effluent***

25. Allows water that is stored in a GSF to be used to earn LTSCs if the Director of ADWR determines that the storage provides a water management benefit to the AMA where the water was stored. (Sec. 12)
26. Permits effluent to be considered as *water that cannot reasonably be used directly* (waterBUD) past the current 2025 sunset date. (Sec. 9,10)
27. Credits the recoverable amount of stored effluent as follows:
  - a. 50% for effluent stored at a USF that does not qualify as an *existing effluent managed USF*;
  - b. 95% for effluent stored at an *existing effluent managed USF*; and
  - c. 100% for effluent stored at a constructed or managed USF or GSF that was designated at the time of storage as a facility that could add value to a national park, national monument or state park. (Sec. 11,12)
28. Allows effluent stored at an *existing effluent managed USF* to be used to demonstrate an assured or adequate water supply if the LTSCs were accrued after the effective date of this legislation. (Sec. 13)

29. Defines *existing effluent managed USF* as a managed USF that meets one of the following:
- a. it is operated pursuant to a permit that authorizes the storage of effluent at the facility and was issued prior to January 1, 2019;
  - b. it is operated pursuant to a renewed or modified permit that was issued after January 1, 2019 if the original permit authorized the storage of effluent at the facility and was issued prior to January 1, 2019;
  - c. it is operated pursuant to a permit that was issued after January 1, 2019 and authorizes the storage of effluent at a location where the permit holder was authorized to store effluent pursuant to a permit that was issued prior to January 1, 2019; or
  - d. it is operated pursuant to a permit that was issued after January 1, 2019 and authorizes the storage of effluent at the facility and the application to operate the facility was on file as of January 1, 2019. (Sec. 9,10)

#### ***Credit Exchanges***

30. Allows the AWBA, by December 31, 2019, to enter into agreements to exchange LTSCs accrued or purchased in one AMA for LTSCs in another AMA if the Director of ADWR determines that the exchange:
- a. is beneficial to water management in Arizona; and
  - b. will not substantially impair the AWBAs ability to meet its Indian firming obligation. (Sec. 16)
31. Allows the AWBA to distribute or extinguish these credits for the purposes currently authorized by statute for the benefit of any AMA. (Sec. 16)
32. Prohibits the terms of any agreement from extending beyond 2026. (Sec. 16)
33. Exempts these LTSC exchanges from the \$250 fee. (Sec. 16)

#### ***Miscellaneous***

34. Makes technical and conforming changes. (Sec. 3-4, 9-12, 14-15)
35. Contains a legislative intent clause, a nonseverability clause and an emergency clause. (Sec. 17,20,21)