

REFERENCE TITLE: groundwater; waterlogged area exemption; date

State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

HB 2309

Introduced by
Representative Dunn

AN ACT

AMENDING SECTIONS 45-411.01 AND 45-519, ARIZONA REVISED STATUTES; RELATING TO THE GROUNDWATER CODE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-411.01, Arizona Revised Statutes, is amended
3 to read:

4 45-411.01. Exemptions from irrigation water duties,
5 conservation requirements for distribution of
6 groundwater and portions of groundwater
7 withdrawal fee for portions of Phoenix active
8 management area; fee; review

9 A. Each person who is entitled to use groundwater pursuant to an
10 irrigation grandfathered right under article 5 of this chapter on
11 irrigation acres located within the area delineated for exemption under
12 subsection E of this section is exempt, beginning January 1, 1989 through
13 December 31, ~~2024~~ 2034, from any irrigation water duties or intermediate
14 water duties established or required to be established for those
15 irrigation acres in the management plans for the first, second, third,
16 fourth and fifth management periods for the Phoenix active management area
17 adopted pursuant to article 9 of this chapter.

18 B. The Arlington canal company, the Buckeye water conservation and
19 drainage district and the St. John's irrigation district, or their
20 successors, are exempt, beginning January 1, 1989 through December 31,
21 ~~2024~~ 2034, from any applicable conservation requirements for the
22 distribution of groundwater established in the management plans for the
23 first, second, third, fourth and fifth management periods for the Phoenix
24 active management area adopted pursuant to article 9 of this chapter.

25 C. No groundwater withdrawal fee shall be levied or collected
26 pursuant to section 45-611 and no water quality assurance fee shall be
27 levied or collected pursuant to section 45-616 for:

28 1. Groundwater withdrawn during calendar years 1989 through ~~2024~~
29 2034 for irrigation use on irrigation acres within the area exempted from
30 irrigation water duties and intermediate water duties under subsection A
31 of this section.

32 2. Groundwater withdrawn and used in the area delineated for
33 exemption under subsection E of this section during calendar years 1999
34 through ~~2024~~ 2034 for a non-irrigation use pursuant to section 45-519,
35 subsection B, if the user of the groundwater pays a fee of ~~five hundred~~
36 ~~dollars~~ \$500 to the director by March 31 of each year following a year in
37 which the groundwater was used. The director shall deposit, pursuant to
38 sections 35-146 and 35-147, the monies collected under this paragraph in
39 the water quality assurance revolving fund established by section 49-282.

40 D. Except as provided in subsection G of this section, a water duty
41 exemption fee of ~~twenty-five cents~~ \$.25 per irrigation acre per year shall
42 be paid to the department for each irrigation acre in the exempted area.
43 The water duty exemption fee shall be paid to the department ~~no~~ NOT later
44 than March 31 of each year from 1990 through ~~2025~~ 2035 for the preceding
45 year by each person who owns irrigation acres within the exempted area as

1 of December 31 of the year preceding the date the payment is due except
 2 that, if the Arlington canal company, the Buckeye water conservation and
 3 drainage district or the St. John's irrigation district, or a successor,
 4 delivers water to the irrigation acres during the year preceding the date
 5 payment is due, the fee shall be paid by the company or district
 6 delivering water to the irrigation acres. If a person who is required to
 7 pay a fee pursuant to this subsection fails to pay the fee for the
 8 calendar year in question on or before March 31 of the following year, the
 9 director may assess and collect a penalty of ten percent of the unpaid
 10 fee, without compounding, for each month or portion of a month that the
 11 fee is delinquent. The total penalty assessed under this subsection shall
 12 not exceed sixty percent of the unpaid fee. The director shall deposit,
 13 pursuant to sections 35-146 and 35-147, all monies collected by the
 14 department under this subsection in the water resources fund established
 15 by section 45-117.

16 E. The boundaries of the exempted area under this section are
 17 delineated on a map of the Phoenix active management area filed in the
 18 office of the secretary of state on May 12, 1988. A true copy of the map
 19 filed in the office of the secretary of state shall be on file in the
 20 department and shall be available for examination by the public during
 21 regular business hours.

22 F. The director shall review the hydrologic conditions within the
 23 area delineated on the map filed in the office of the secretary of state
 24 pursuant to subsection E of this section. The director shall consult with
 25 representatives of the Arlington canal company, the Buckeye water
 26 conservation and drainage district and the St. John's irrigation district,
 27 or their successors, and all cities and towns within the exempted area, on
 28 the scope of the review before beginning the review and on the status of
 29 the review periodically during the course of the review. The director
 30 shall submit a recommendation to the governor, the president of the senate
 31 and the speaker of the house of representatives ~~no~~ NOT later than ~~December~~
 32 ~~NOVEMBER~~ 15, ~~2019~~ 2031 regarding extending the exemptions established in
 33 this section.

34 G. A person who owns an irrigation grandfathered right appurtenant
 35 to ten or fewer irrigation acres located in the exempt area is exempt from
 36 the payment of a water duty exemption fee for the acres prescribed by
 37 subsection D of this section unless the irrigation acres are part of an
 38 integrated farming operation. The exemption provided by this subsection
 39 does not apply to the Arlington canal company, the Buckeye water
 40 conservation and drainage district or the St. John's irrigation district,
 41 or any successor, in any year in which the company or district delivers
 42 water to the irrigation acres.

1 Sec. 2. Section 45-519, Arizona Revised Statutes, is amended to
2 read:

3 45-519. Drainage water withdrawal permit; conditions for
4 issuance

5 A. A person may apply for and the director may issue a drainage
6 water withdrawal permit if the director determines that drainage of
7 irrigated lands is necessary for a reasonable economic return from
8 agricultural production in respect to those lands and the withdrawal of
9 such groundwater is consistent with the management plan and achievement of
10 the management goal for the active management area.

11 B. The holder of a permit issued under subsection A of this section
12 may:

13 1. Use groundwater withdrawn pursuant to the permit for a
14 non-irrigation use if the person holds a non-irrigation grandfathered
15 right pursuant to article 5 of this chapter, a general industrial use
16 permit pursuant to section 45-515 or a service area right pursuant to
17 article 6 of this chapter.

18 2. Convey groundwater withdrawn pursuant to the permit to another
19 person for a non-irrigation use if the person receiving the groundwater
20 holds a non-irrigation grandfathered right pursuant to article 5 of this
21 chapter, a general industrial use permit pursuant to section 45-515 or a
22 service area right pursuant to article 6 of this chapter.

23 C. When determining compliance with the applicable conservation
24 requirements established pursuant to sections 45-565, 45-565.01, 45-566,
25 45-566.01, 45-567, 45-567.01, 45-568 and 45-568.01, the director shall
26 account for groundwater withdrawn pursuant to a permit issued pursuant to
27 subsection A of this section as surface water if the groundwater is
28 withdrawn before January 1, ~~2025~~ 2035 from within the boundaries of the
29 exempted area prescribed by section 45-411.01, subsection E and is used
30 pursuant to subsection B of this section at a turf related facility or
31 riparian habitat within the exempted area. The director shall cease
32 accounting for the groundwater as surface water on expiration of the
33 exemptions provided for in section 45-411.01 or on termination of the
34 permit, whichever occurs first.

35 D. The director shall monitor withdrawals of groundwater pursuant
36 to a drainage water withdrawal permit and shall terminate the permit if
37 the conditions for issuance specified in subsection A of this section no
38 longer apply. A permit issued pursuant to this section may be renewed
39 subject to the same criteria used in granting the original permit.