

House Engrossed Senate Bill

~~TPT; exemption; agricultural equipment.~~
(now: irrigation districts; service area; WIFA)

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

CHAPTER 213

SENATE BILL 1197

AN ACT

AMENDING SECTIONS 45-402 AND 48-3207, ARIZONA REVISED STATUTES; RELATING
TO WATER SPECIAL TAXING DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-402, Arizona Revised Statutes, is amended to
3 read:

4 45-402. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Accounting period" means the calendar year, except such other
7 twelve-month period as may be otherwise agreed ~~upon~~ ON by the director and
8 the owner of a farm or a district on behalf of its landowners.

9 2. "Active management area" means a geographical area ~~which~~ THAT
10 has been designated pursuant to article 2 of this chapter as requiring
11 active management of groundwater or, in the case of the Santa Cruz active
12 management area, active management of any water, other than stored water,
13 withdrawn from a well.

14 3. "Animal industry use" means the production, growing and feeding
15 of livestock, range livestock or poultry, as such terms are defined in
16 section 3-1201. Animal industry use is included in the term and general
17 treatment of industry in this chapter, unless specifically provided
18 otherwise.

19 4. "City" or "town" means a city or town incorporated or chartered
20 under the constitution and laws of this state.

21 5. "Conservation district" means a multi-county water conservation
22 district established under title 48, chapter 22.

23 6. "Convey" means to transfer the ownership of a grandfathered
24 right from one person to another.

25 7. "Date of the designation of the active management area" means:

26 (a) With respect to an initial active management area, June 12,
27 1980.

28 (b) With respect to a subsequent active management area, the date
29 on which the director's order designating the active management area
30 becomes effective as provided in section 45-414 or the date on which the
31 final results of an election approving the establishment of the active
32 management area pursuant to section 45-415 are certified by the board of
33 supervisors of the county or counties in which the active management area
34 is located.

35 8. "Exempt well" means a well ~~having~~ THAT HAS a pump with a maximum
36 capacity of not more than thirty-five gallons per minute ~~which~~ AND THAT is
37 used to withdraw groundwater pursuant to section 45-454.

38 9. "Expanded animal industry use" means increased water use by an
39 animal industrial enterprise on the land in use by the enterprise on June
40 12, 1980 or on immediately adjoining land, excluding irrigation uses.

41 10. "Farm" means an area of irrigated land ~~which~~ THAT is under the
42 same ownership, ~~which~~ THAT is served by a water distribution system common
43 to the irrigated land and to which can be applied common conservation,
44 water measurement and water accounting procedures.

1 11. "Farm unit" means:

2 (a) With respect to areas outside an active management area and
3 with respect to an active management area other than the Santa Cruz active
4 management area, one or more farms ~~which~~ THAT are irrigated with
5 groundwater and ~~which~~ THAT are contiguous or in proximity to each other
6 with similar soil conditions, crops and cropping patterns.

7 (b) With respect to the Santa Cruz active management area, one or
8 more farms ~~which~~ THAT are irrigated with water, other than stored water,
9 withdrawn from a well and ~~which~~ THAT are contiguous or in proximity to
10 each other with similar soil conditions, crops and cropping patterns.

11 12. "Grandfathered right" means a right to withdraw and use
12 groundwater pursuant to article 5 of this chapter based on the fact of
13 lawful withdrawals and use of groundwater ~~prior to~~ BEFORE the date of the
14 designation of an active management area.

15 13. "Groundwater basin" means an area ~~which~~ THAT, as nearly as
16 known facts ~~permit~~ ALLOW as determined by the director pursuant to this
17 chapter, may be designated so as to enclose a relatively hydrologically
18 distinct body or related bodies of groundwater, which shall be described
19 horizontally by surface description.

20 14. "Groundwater replenishment district" or "replenishment
21 district" means a district that is established pursuant to title 48,
22 chapter 27.

23 15. "Groundwater withdrawal permit" means a permit issued by the
24 director pursuant to article 7 of this chapter.

25 16. "Initial active management area" means the Phoenix, Prescott or
26 Pinal active management area established by section 45-411, the Tucson
27 active management area established by section 45-411 and modified by
28 section 45-411.02 and the Santa Cruz active management area established by
29 section 45-411.03.

30 17. "Integrated farming operation" means:

31 (a) With respect to land within an irrigation non-expansion area,
32 more than ten acres of land that are contiguous or in close proximity,
33 that may be irrigated pursuant to section 45-437, that are not under the
34 same ownership and that are farmed as a single farming operation.

35 (b) With respect to land within an active management area, two or
36 more farms that are contiguous or in close proximity, that collectively
37 have more than ten irrigation acres and that are farmed as a single
38 farming operation.

39 18. "Irrigate" means to apply water to two or more acres of land to
40 produce plants or parts of plants for sale or human consumption, or for
41 use as feed for livestock, range livestock or poultry, as such terms are
42 defined in section 3-1201.

43 19. "Irrigation acre" means an acre of land, as determined in
44 section 45-465, subsection B, to which an irrigation grandfathered right
45 is appurtenant.

1 20. "Irrigation district" means a political subdivision, however
2 designated, established pursuant to title 48, chapter 17 or 19.

3 21. "Irrigation grandfathered right" means a grandfathered right
4 determined pursuant to section 45-465.

5 22. "Irrigation non-expansion area" means a geographical area **which**
6 **THAT** has been designated pursuant to article 3 of this chapter as having
7 insufficient groundwater to provide a reasonably safe supply for the
8 irrigation of the cultivated lands at the current rate of withdrawal.

9 23. "Irrigation use" means:

10 (a) With respect to areas outside an active management area and
11 with respect to an active management area other than the Santa Cruz
12 active management area, the use of groundwater on two or more acres of
13 land to produce plants or parts of plants for sale or human consumption,
14 or for use as feed for livestock, range livestock or poultry, as such
15 terms are defined in section 3-1201.

16 (b) With respect to the Santa Cruz active management area, the use
17 of water, other than stored water, withdrawn from a well on two or more
18 acres of land to produce plants or parts of plants for sale or human
19 consumption, or for use as feed for livestock, range livestock or poultry,
20 as such terms are defined in section 3-1201.

21 24. "Irrigation water duty" or "water duty" means the amount of
22 water in acre-feet per acre that is reasonable to apply to irrigated land
23 in a farm unit during the accounting period, as determined by the director
24 pursuant to sections 45-564 through 45-568 or as prescribed in section
25 45-483.

26 25. "Member land" means real property that qualifies as a member
27 land of a conservation district as provided by title 48, chapter 22.

28 26. "Member service area" means the service area of a city, town or
29 private water company that qualifies as a member service area of a
30 conservation district as provided by title 48, chapter 22.

31 27. "Non-irrigation grandfathered right" means a grandfathered
32 right determined pursuant to section 45-463, 45-464, 45-469 or 45-472.

33 28. "Non-irrigation use" means:

34 (a) With respect to areas outside an active management area and
35 with respect to an active management area other than the Santa Cruz active
36 management area, a use of groundwater other than an irrigation use.

37 (b) With respect to the Santa Cruz active management area, a use of
38 water, other than stored water, withdrawn from a well, other than an
39 irrigation use.

40 29. "Person" means an individual, public or private corporation,
41 company, partnership, firm, association, society, estate or trust, any
42 other private organization or enterprise, the United States, any state,
43 territory or country or a governmental entity, political subdivision or
44 municipal corporation organized under or subject to the constitution and
45 laws of this state.

1 30. "Private water company" means:

2 (a) With respect to areas outside an active management area and
3 with respect to an active management area other than the Santa Cruz active
4 management area, any entity ~~which~~ THAT distributes or sells groundwater,
5 except a political subdivision or an entity ~~which~~ THAT is established
6 pursuant to title 48 and ~~which~~ THAT is not regulated as a public service
7 corporation by the Arizona corporation commission under a certificate of
8 public convenience and necessity. A city or town is not a private water
9 company.

10 (b) With respect to the Santa Cruz active management area, any
11 entity ~~which~~ THAT distributes or sells water, other than stored water,
12 withdrawn from a well, except a political subdivision or an entity ~~which~~
13 THAT is established pursuant to title 48 and ~~which~~ THAT is not regulated
14 as a public service corporation by the Arizona corporation commission
15 under a certificate of public convenience and necessity. A city or town
16 is not a private water company.

17 31. "Service area" means:

18 (a) With respect to a city or town, the area of land actually being
19 served water, for a non-irrigation use, by the city or town plus:

20 (i) Additions to such area ~~which~~ THAT contain an operating
21 distribution system owned by the city or town primarily for the delivery
22 of water for a non-irrigation use.

23 (ii) The service area of a city, town or private water company that
24 obtains its water from the city pursuant to a contract entered into ~~prior~~
25 ~~to~~ BEFORE the date of the designation of the active management area.

26 (b) With respect to a private water company, the area of land of
27 the private water company actually being served water, for a
28 non-irrigation use, by the private water company plus additions to such
29 area ~~which~~ THAT contain an operating distribution system owned by the
30 private water company primarily for the delivery of water for a
31 non-irrigation use.

32 32. "Service area of an irrigation district" means:

33 (a) With respect to an irrigation district ~~which~~ THAT was engaged
34 in the withdrawal, delivery and distribution of groundwater as of the date
35 of the designation of the active management area, the area of land within
36 the boundaries of the irrigation district actually being served water by
37 the irrigation district at any time during the five years preceding the
38 date of the designation of the active management area plus any areas as of
39 the date of the designation of the active management area within the
40 boundaries of the irrigation district ~~which~~ THAT contain an operating
41 system of canals, flumes, ditches and other works owned or operated by the
42 irrigation district. The service area may be modified pursuant to section
43 45-494.01.

1 (b) With respect to an irrigation district ~~which~~ THAT was not
2 engaged in the withdrawal, delivery and distribution of groundwater as of
3 the date of the designation of the active management area:

4 (i) The acres of member lands within the boundaries of the
5 irrigation district ~~which~~ THAT were legally irrigated at any time from
6 January 1, 1975 through January 1, 1980 for initial active management
7 areas or during the five years preceding the date of the designation of
8 the active management area for subsequent active management areas.

9 (ii) Any areas ~~as of the date of the designation of the active~~
10 ~~management area within the boundaries of the irrigation district which OF~~
11 LAND THAT contain an operating system of canals, flumes, ditches and other
12 works OWNED OR OPERATED BY THE IRRIGATION DISTRICT for the withdrawal,
13 delivery and distribution of water, EXCEPT THAT ADDITIONAL AREAS
14 CONTAINING AN OPERATING SYSTEM OF CANALS, FLUMES, DITCHES AND OTHER WORKS
15 OWNED OR OPERATED BY THE IRRIGATION DISTRICT MAY NOT BE ADDED AFTER
16 DECEMBER 31, 2027.

17 33. "Stored water" means water that is stored underground for the
18 purpose of recovery pursuant to a permit issued under chapter 3.1 of this
19 title.

20 34. "Subbasin" means an area ~~which~~ THAT, as nearly as known facts
21 ~~permit~~ ALLOW as determined by the director pursuant to this chapter, may
22 be designated so as to enclose a relatively hydrologically distinct body
23 of groundwater within a groundwater basin, which shall be described
24 horizontally by surface description.

25 35. "Subsequent active management area" means an active management
26 area established after June 12, 1980 pursuant to article 2 of this
27 chapter.

28 36. "Subsidence" means the settling or lowering of the surface of
29 land ~~which~~ THAT results from the withdrawal of groundwater.

30 37. "Transportation" means the movement of groundwater from the
31 point of withdrawal to the point of use.

32 38. "Type 1 non-irrigation grandfathered right" means a
33 non-irrigation grandfathered right associated with retired irrigated land
34 and determined pursuant to section 45-463, 45-469 or 45-472.

35 39. "Type 2 non-irrigation grandfathered right" means a
36 non-irrigation grandfathered right not associated with retired irrigated
37 land and determined pursuant to section 45-464.

38 40. "Water district" means an active management area water district
39 that is established under title 48, chapter 28 and that has adopted an
40 ordinance or resolution to undertake water district groundwater
41 replenishment obligations as defined and used in title 48, chapter 28,
42 article 7.

43 41. "Water district member land" means real property that qualifies
44 as water district member land of a water district as provided by title 48,
45 chapter 28.

1 E. A loan repayment agreement under this section does not create a
2 debt of the irrigation or water conservation district, and the authority
3 shall not require that payment of a loan agreement be made from other than
4 those sources permitted in subsection B **OF THIS SECTION**.

5 F. An irrigation or water conservation district may employ or
6 contract for the services of attorneys, accountants, financial consultants
7 and other experts in their field as deemed necessary to perform services
8 with respect to the loan repayment agreement.

9 G. This section is supplemental and alternative to any other law
10 under which a district may borrow money or issue bonds. This section
11 ~~shall be construed as~~ **IS** the exclusive authorization to enter into loan
12 agreements with the authority.

13 H. For the purposes of this section:

14 1. "Authority" means the water infrastructure finance authority of
15 Arizona.

16 2. "Board" means the water infrastructure finance authority of
17 Arizona board of directors.

APPROVED BY THE GOVERNOR MAY 2, 2022.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2, 2022.