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

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

45-402. Definitions

In this chapter, unless the context otherwise requires:

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

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or, in the case of the Santa Cruz active management area, active management of any water, other than stored water, withdrawn from a well.

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

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

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

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

7. "Date of the designation of the active management area" means:
   (a) With respect to an initial active management area, June 12, 1980.
   (b) With respect to a subsequent active management area, the date on which the director's order designating the active management area becomes effective as provided in section 45-414 or the date on which the final results of an election approving the establishment of the active management area pursuant to section 45-415 are certified by the board of supervisors of the county or counties in which the active management area is located.

8. "Exempt well" means a well having a pump with a maximum capacity of not more than thirty-five gallons per minute used to withdraw groundwater pursuant to section 45-454.

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

10. "Farm" means an area of irrigated land served by a water distribution system common to the irrigated land and to which can be applied common conservation, water measurement and water accounting procedures.
11. "Farm unit" means:
   (a) With respect to areas outside an active management area and
       with respect to an active management area other than the Santa Cruz active
       management area, one or more farms which are irrigated with
       groundwater and which are contiguous or in proximity to each other
       with similar soil conditions, crops and cropping patterns.
   (b) With respect to the Santa Cruz active management area, one or
       more farms which are irrigated with water, other than stored water,
       withdrawn from a well and which are contiguous or in proximity to
       each other with similar soil conditions, crops and cropping patterns.
12. "Grandfathered right" means a right to withdraw and use
    groundwater pursuant to article 5 of this chapter based on the fact of
    lawful withdrawals and use of groundwater prior to BEFORE the date of the
    designation of an active management area.
13. "Groundwater basin" means an area which, as nearly as
    known facts permit, may be designated so as to enclose a relatively hydrologically
    distinct body or related bodies of groundwater, which shall be described
    horizontally by surface description.
14. "Groundwater replenishment district" or "replenishment
    district" means a district that is established pursuant to title 48,
    chapter 27.
15. "Groundwater withdrawal permit" means a permit issued by the
    director pursuant to article 7 of this chapter.
16. "Initial active management area" means the Phoenix, Prescott or
    Pinal active management area established by section 45-411, the Tucson
    active management area established by section 45-411 and modified by
    section 45-411.02 and the Santa Cruz active management area established by
    section 45-411.03.
17. "Integrated farming operation" means:
   (a) With respect to land within an irrigation non-expansion area,
       more than ten acres of land that are contiguous or in close proximity,
       that may be irrigated pursuant to section 45-437, that are not under the
       same ownership and that are farmed as a single farming operation.
   (b) With respect to land within an active management area, two or
       more farms that are contiguous or in close proximity, that collectively
       have more than ten irrigation acres and that are farmed as a single
       farming operation.
18. "Irrigate" means to apply water to two or more acres of land to
    produce plants or parts of plants for sale or human consumption, or for
    use as feed for livestock, range livestock or poultry, as such terms are
    defined in section 3-1201.
19. "Irrigation acre" means an acre of land, as determined in
    section 45-465, subsection B, to which an irrigation grandfathered right
    is appurtenant.
20. "Irrigation district" means a political subdivision, however designated, established pursuant to title 48, chapter 17 or 19.

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

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

23. "Irrigation use" means:
   (a) With respect to areas outside an active management area and with respect to an active management area other than the Santa Cruz active management area, the use of groundwater on two or more acres of land to produce plants or parts of plants for sale or human consumption, or for use as feed for livestock, range livestock or poultry, as such terms are defined in section 3-1201.
   (b) With respect to the Santa Cruz active management area, the use of water, other than stored water, withdrawn from a well on two or more acres of land to produce plants or parts of plants for sale or human consumption, or for use as feed for livestock, range livestock or poultry, as such terms are defined in section 3-1201.

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

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

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

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

28. "Non-irrigation use" means:
   (a) With respect to areas outside an active management area and with respect to an active management area other than the Santa Cruz active management area, a use of groundwater other than an irrigation use.
   (b) With respect to the Santa Cruz active management area, a use of water, other than stored water, withdrawn from a well, other than an irrigation use.

29. "Person" means an individual, public or private corporation, company, partnership, firm, association, society, estate or trust, any other private organization or enterprise, the United States, any state, territory or country or a governmental entity, political subdivision or municipal corporation organized under or subject to the constitution and laws of this state.
30. "Private water company" means:
   (a) With respect to areas outside an active management area and
       with respect to an active management area other than the Santa Cruz active
       management area, any entity which distributes or sells groundwater,
       except a political subdivision or an entity which is established
       pursuant to title 48 and which is not regulated as a public service
       corporation by the Arizona corporation commission under a certificate of
       public convenience and necessity. A city or town is not a private water
       company.
   (b) With respect to the Santa Cruz active management area, any
       entity which distributes or sells water, other than stored water,
       withdrawn from a well, except a political subdivision or an entity which
       is established pursuant to title 48 and which is not regulated
       as a public service corporation by the Arizona corporation commission
       under a certificate of public convenience and necessity. A city or town
       is not a private water company.

31. "Service area" means:
   (a) With respect to a city or town, the area of land actually being
       served water, for a non-irrigation use, by the city or town plus:
       (i) Additions to such area which contain an operating
           distribution system owned by the city or town primarily for the delivery
           of water for a non-irrigation use.
       (ii) The service area of a city, town or private water company that
           obtains its water from the city pursuant to a contract entered into prior
           to BEFORE the date of the designation of the active management area.
   (b) With respect to a private water company, the area of land of
       the private water company actually being served water, for a
       non-irrigation use, by the private water company plus additions to such
       area which contain an operating distribution system owned by the
       private water company primarily for the delivery of water for a
       non-irrigation use.

32. "Service area of an irrigation district" means:
   (a) With respect to an irrigation district which was engaged
       in the withdrawal, delivery and distribution of groundwater as of the date
       of the designation of the active management area, the area of land within
       the boundaries of the irrigation district actually being served water by
       the irrigation district at any time during the five years preceding the
       date of the designation of the active management area plus any areas as of
       the date of the designation of the active management area within the
       boundaries of the irrigation district which contain an operating
       system of canals, flumes, ditches and other works owned or operated by the
       irrigation district. The service area may be modified pursuant to section
       45-494.01.
(b) With respect to an irrigation district which was not engaged in the withdrawal, delivery and distribution of groundwater as of the date of the designation of the active management area:

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

(ii) Any areas as of the date of the designation of the active management area within the boundaries of the irrigation district which contain an operating system of canals, flumes, ditches and other works owned or operated by the irrigation district for the withdrawal, delivery and distribution of water, except that additional areas containing an operating system of canals, flumes, ditches and other works owned or operated by the irrigation district may not be added after December 31, 2027.

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

34. "Subbasin" means an area which, as nearly as known facts permit, may be designated so as to enclose a relatively hydrologically distinct body of groundwater within a groundwater basin, which shall be described horizontally by surface description.

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

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

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

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

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

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

41. "Water district member land" means real property that qualifies as water district member land of a water district as provided by title 48, chapter 28.
42. "Water district member service area" means the service area of the city, town or private water company that qualifies as a water district member service area of a water district as provided by title 48, chapter 28.

43. "Well" means a man-made opening in the earth through which water may be withdrawn or obtained from beneath the surface of the earth except as provided in section 45-591.01.

Sec. 2. Section 48-3207, Arizona Revised Statutes, is amended to read:

48-3207. Water, wastewater infrastructure projects; loan repayment agreements; definitions

A. Notwithstanding any other law, an irrigation or water conservation district may DESIGN, construct, acquire, REHABILITATE or improve a drinking water facility or WASTEWATER INFRASTRUCTURE, RELATED PROPERTY AND APPURTENANCES OR A NONPOINT SOURCE PROJECT with monies borrowed from or financial assistance, including forgivable principal, provided by the water infrastructure finance authority of Arizona pursuant to title 49, chapter 8.

B. To repay a loan from the authority a district may enter into a loan repayment agreement with the authority. A loan repayment agreement is payable from any revenues otherwise authorized by law to be used to pay long-term obligations.

C. The board shall obtain approval for the loan repayment agreement in the same manner provided by law for approving and issuing other obligations payable from those revenues that are to be used to pay the loan.

D. A loan repayment agreement entered into pursuant to this section shall contain the covenants and conditions pertaining to the DESIGN, construction, acquisition, REHABILITATION or improvement of a drinking water facility or WASTEWATER INFRASTRUCTURE, RELATED PROPERTY AND APPURTENANCES OR A NONPOINT SOURCE PROJECT and repayment of the loan as the authority deems proper. Loan agreements may provide for the payment of interest on the unpaid principal balance of the agreement at the rates established in the agreement. The agreement may also provide for payment of the irrigation or water conservation district's proportionate share of the expenses of administering the drinking water revolving fund established by section 49-1241 THAT IS THE SOURCE OF THE FINANCIAL ASSISTANCE and may provide that the irrigation or water conservation district pay financing and loan administration fees approved by the authority. These costs may be included in the assessment amounts pledged to repay the loan. Districts are bound by and shall fully perform the loan repayment agreements, and the agreements are incontestable after the loan is funded by the authority. The irrigation or water conservation district shall also agree to pay the authority's costs in issuing bonds or otherwise borrowing to fund a loan.
E. A loan repayment agreement under this section does not create a debt of the irrigation or water conservation district, and the authority shall not require that payment of a loan agreement be made from other than those sources permitted in subsection B OF THIS SECTION.

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

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

H. For the purposes of this section:
   1. “Authority” means the water infrastructure finance authority of Arizona.
   2. “Board” means the water infrastructure finance authority of Arizona board of directors.