

House Engrossed
water; substitute acreage

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HOUSE BILL 2441

AN ACT

AMENDING TITLE 45, CHAPTER 1, ARTICLE 6, ARIZONA REVISED STATUTES, BY
ADDING SECTIONS 45-172.01 AND 45-172.02; RELATING TO WATERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 45, chapter 1, article 6, Arizona Revised
3 Statutes, is amended by adding sections 45-172.01 and 45-172.02, to read:

4 45-172.01. Flood damaged acres; substitution of acres;
5 definitions

6 A. NOTWITHSTANDING SECTION 45-172, A PERSON WHO OWNS ACRES OF LAND
7 THAT MAY BE IRRIGATED MAY PERMANENTLY RETIRE THOSE ACRES FROM IRRIGATION
8 AND SUBSTITUTE FOR THOSE ACRES THE SAME NUMBER OF ACRES IN THE SAME FARM
9 UNIT UNDER COMMON OWNERSHIP IF THE OWNER NOTIFIES THE DIRECTOR THAT BOTH
10 OF THE FOLLOWING APPLY:

11 1. THE IRRIGATED ACRES WERE DAMAGED BY FLOODWATERS AFTER BEING
12 IRRIGATED.

13 2. IT IS NOT ECONOMICALLY FEASIBLE TO RESTORE THE FLOOD DAMAGED
14 ACRES TO IRRIGATION USE.

15 B. THE SUBSTITUTION OF ACRES AS PRESCRIBED IN THIS SECTION DOES NOT
16 AFFECT THE PERSON'S EXISTING OR VESTED RIGHTS TO THE USE OF WATER, EXCEPT
17 AS TO PLACE OF USE, AND ANY WATER DIVERTED OR USED AFTER THE SUBSTITUTION
18 OF ACRES SHALL NOT EXCEED THE VESTED RIGHTS TO WATER THAT EXIST AT THE
19 TIME OF SUBSTITUTION.

20 C. THE DIRECTOR SHALL POST THE NOTICE PRESCRIBED BY THIS SECTION ON
21 THE DEPARTMENT'S WEBSITE.

22 D. FOR THE PURPOSES OF THIS SECTION:

23 1. "FARM UNIT" MEANS ONE OR MORE FARMS THAT ARE CONTIGUOUS OR IN
24 CLOSE PROXIMITY TO EACH OTHER, THAT ARE OPERATED ON A UNITARY BASIS AND
25 THAT ARE SERVED WATER FROM THE SAME WATER SOURCE BY A WATER DISTRIBUTION
26 SYSTEM COMMON TO THE IRRIGATED LAND.

27 2. "FLOODWATERS" MEANS A TEMPORARY AND EROSION OVERFLOW OF WATERS
28 ON LANDS THAT ARE NOT NORMALLY COVERED BY WATER.

29 45-172.02. Impediments to efficient irrigation; substitution
30 of acres; definitions

31 A. NOTWITHSTANDING SECTION 45-172, A PERSON WHO OWNS ACRES OF LAND
32 THAT ARE CONTIGUOUS AND THAT MAY BE IRRIGATED MAY PERMANENTLY RETIRE A
33 PORTION OF THOSE ACRES FROM IRRIGATION AND SUBSTITUTE FOR THE RETIRED
34 ACRES THE SAME NUMBER OF ACRES IF THE OWNER NOTIFIES THE DIRECTOR THAT ALL
35 OF THE FOLLOWING APPLY:

36 1. A LIMITING CONDITION ASSOCIATED WITH THE ACRES TO BE RETIRED
37 FROM IRRIGATION SUBSTANTIALLY IMPEDES IMPLEMENTING EFFICIENT IRRIGATION
38 PRACTICES ON THE IRRIGATED ACRES.

39 2. THE SUBSTITUTION OF ACRES WILL SUBSTANTIALLY REDUCE THE LIMITING
40 CONDITION AND WILL SUBSTANTIALLY FACILITATE IMPLEMENTING EFFICIENT
41 IRRIGATION PRACTICES.

42 3. THE SUBSTITUTE ACRES ARE WITHIN THE SAME FARM UNIT UNDER COMMON
43 OWNERSHIP AS THE IRRIGATED ACRES THAT WILL NOT BE RETIRED.

1 4. IF THE ACRES TO BE RETIRED ARE LOCATED WITHIN THE EXTERIOR
2 BOUNDARIES OF AN IRRIGATION DISTRICT, THE SUBSTITUTE ACRES MUST BE LOCATED
3 WITHIN THE EXTERIOR BOUNDARIES OF THE SAME IRRIGATION DISTRICT.

4 5. THE AREA OF LAND WITHIN THE SUBSTITUTE ACRES THAT IS PHYSICALLY
5 CAPABLE OF BEING IRRIGATED AT THE TIME THE NOTICE OF SUBSTITUTION OF ACRES
6 IS FILED DOES NOT EXCEED THE AREA OF LAND WITHIN THE ACRES TO BE RETIRED
7 THAT IS PHYSICALLY CAPABLE OF BEING IRRIGATED AT THE TIME THE NOTICE OF
8 SUBSTITUTION OF ACRES IS FILED.

9 B. THE SUBSTITUTION OF ACRES AS PRESCRIBED IN THIS SECTION DOES NOT
10 AFFECT THE PERSON'S EXISTING OR VESTED RIGHTS TO THE USE OF WATER, EXCEPT
11 AS TO PLACE OF USE, AND ANY WATER DIVERTED OR USED AFTER THE SUBSTITUTION
12 OF ACRES SHALL NOT EXCEED THE VESTED RIGHTS TO WATER THAT EXIST AT THE
13 TIME OF SUBSTITUTION.

14 C. THE DIRECTOR SHALL POST THE NOTICE PRESCRIBED BY THIS SECTION ON
15 THE DEPARTMENT'S WEBSITE.

16 D. FOR THE PURPOSES OF THIS SECTION:

17 1. "FARM UNIT" MEANS ONE OR MORE FARMS THAT ARE CONTIGUOUS OR IN
18 CLOSE PROXIMITY TO EACH OTHER, THAT ARE OPERATED ON A UNITARY BASIS AND
19 THAT ARE SERVED WATER FROM THE SAME WATER SOURCE BY A WATER DISTRIBUTION
20 SYSTEM COMMON TO THE IRRIGATED LAND.

21 2. "LIMITING CONDITION" MEANS ANY CONDITION THAT LIMITS THE
22 ACHIEVEMENT OF EFFICIENT IRRIGATION ON THE IRRIGATED ACRES, INCLUDING
23 IRREGULARLY SHAPED IRRIGATED ACRES AND POOR QUALITY SOILS.