



**ARIZONA STATE SENATE**  
*Fifty-Fifth Legislature, First Regular Session*

**ENACTED**

FACT SHEET FOR H.B. 2056/S.B. 1368

water conservation notice; no forfeiture

Purpose

Allows a person who is entitled to use surface water to file a water conservation plan notice in which the included conservation does not constitute abandonment or forfeiture of the water conserved.

Background

*Surface water* statutorily includes the waters of all sources, flowing in streams, canyons, ravines or other natural channels, or in definite underground channels, whether perennial or intermittent, flood, waste or surplus water, and of lakes, ponds and springs on the surface ([A.R.S. § 45-141](#)).

Surface water is subject to appropriation and beneficial use. Arizona's surface water rights are governed by the doctrine of prior appropriation, which means the water rights of the first person to put the water to beneficial use are senior to water rights that were appropriated later, or *first in time, first in right* (*Clough v. Wing*, 2 Ariz. 371 (1888)).

If the Director of the Arizona Department of Water Resources (Director of ADWR) determines that a person who is entitled to use surface water has not put the water to beneficial use, as required by statute, for five or more consecutive years, the water right reverts back to the state. Statute provides for a hearing process to dispute the relinquished right and certain exceptions that are sufficient cause of nonuse of the water ([A.R.S. § 45-189](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Allows a person who is entitled to use surface water to file a water conservation plan notice with the Director of ADWR and stipulates that water included in a conservation plan does not constitute abandonment or forfeiture of the water conserved.
2. Prohibits a person from accruing long-term storage credits for conserved water included in a filed water conservation plan notice.

3. Requires a water conservation plan notice to include:
  - a) the name and address of the person who is entitled to use of the water included in the water conservation plan;
  - b) a description of all water rights and claims included in the water conservation plan;
  - c) the place and purpose of the use of the identified water rights and claims and the historical and current water use;
  - d) a description of any water conservation measures that will be implemented as part of the water conservation plan;
  - e) a statement that the water conservation plan is voluntary and temporary in nature;
  - f) a statement that the water conservation plan is intended to result in the temporary reduction in the used of water or a reduction in the diversion of water;
  - g) a statement that the activities described in the water conservation plan will contribute to the practical and economical management, conservation and use of surface water in the watersheds of Arizona; and
  - h) a statement that the water right holder does not intend to abandon a water right included in the water conservation plan during the terms of the plan.
4. Requires a water conservation plan to designate a duration of up to 10 years and allows subsequent notice, if filed before the expiration date of the previous notice, for periods of up to 10 years.
5. Deems conservation of water pursuant to a filed water conservation plan notice as a sufficient cause for nonuse of the water in the Director of ADWR's determination of whether a water right is relinquished for forfeiture or abandonment.
6. Declares the Legislature's intent that this legislation apply only prospectively and that water conservation contributes to the practical and economical management, conservation and use of surface water in the watersheds of Arizona without affecting associated water rights or claims.
7. Makes technical and conforming changes.
8. Becomes effective on the general effective date.

House Action

NREW            1/12/21    DP    10-0-0-0  
3<sup>rd</sup> Read        1/28/21            58-0-2

Senate Action

NREW            2/3/21    DP    9-0-0  
3<sup>rd</sup> Read        2/11/21            29-0-1  
(H.B. 2056 was substituted for S.B. 1368 on 3<sup>rd</sup>  
Read)

Signed by the Governor 2/18/21  
Chapter 22

Prepared by Senate Research  
February 19, 2021  
KN/gs