

COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1197
(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

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 has
10 been designated pursuant to article 2 of this chapter as requiring active
11 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13 withdrawn from a well.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.

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

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

4 (a) With respect to an initial active management area, June 12,
5 1980.

6 (b) With respect to a subsequent active management area, the date on
7 which the director's order designating the active management area becomes
8 effective as provided in section 45-414 or the date on which the final
9 results of an election approving the establishment of the active management
10 area pursuant to section 45-415 are certified by the board of supervisors
11 of the county or counties in which the active management area is located.

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

15 9. "Expanded animal industry use" means increased water use by an
16 animal industrial enterprise on the land in use by the enterprise on June
17 12, 1980 or on immediately adjoining land, excluding irrigation uses.

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

22 11. "Farm unit" means:

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

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30 withdrawn from a well and ~~which~~ THAT are contiguous or in proximity to each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

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

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

10 14. "Groundwater replenishment district" or "replenishment district"
11 means a district that is established pursuant to title 48, chapter 27.

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

14 16. "Initial active management area" means the Phoenix, Prescott or
15 Pinal active management area established by section 45-411, the Tucson
16 active management area established by section 45-411 and modified by
17 section 45-411.02 and the Santa Cruz active management area established by
18 section 45-411.03.

19 17. "Integrated farming operation" means:

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

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

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

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

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

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

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

12 23. "Irrigation use" means:

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

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

24 24. "Irrigation water duty" or "water duty" means the amount of
25 water in acre-feet per acre that is reasonable to apply to irrigated land
26 in a farm unit during the accounting period, as determined by the director
27 pursuant to sections 45-564 through 45-568 or as prescribed in section
28 45-483.

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

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

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

6 28. "Non-irrigation use" means:

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

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

13 29. "Person" means an individual, public or private corporation,
14 company, partnership, firm, association, society, estate or trust, any
15 other private organization or enterprise, the United States, any state,
16 territory or country or a governmental entity, political subdivision or
17 municipal corporation organized under or subject to the constitution and
18 laws of this state.

19 30. "Private water company" means:

20 (a) With respect to areas outside an active management area and with
21 respect to an active management area other than the Santa Cruz active
22 management area, any entity ~~which~~ THAT distributes or sells groundwater,
23 except a political subdivision or an entity ~~which~~ THAT is established
24 pursuant to title 48 and ~~which~~ THAT is not regulated as a public service
25 corporation by the Arizona corporation commission under a certificate of
26 public convenience and necessity. A city or town is not a private water
27 company.

28 (b) With respect to the Santa Cruz active management area, any
29 entity ~~which~~ THAT distributes or sells water, other than stored water,
30 withdrawn from a well, except a political subdivision or an entity ~~which~~
31 THAT is established pursuant to title 48 and ~~which~~ THAT is not regulated as
32 a public service corporation by the Arizona corporation commission under a

1 certificate of public convenience and necessity. A city or town is not a
2 private water company.

3 31. "Service area" means:

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

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

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

12 (b) With respect to a private water company, the area of land of the
13 private water company actually being served water, for a non-irrigation
14 use, by the private water company plus additions to such area ~~which~~ THAT
15 contain an operating distribution system owned by the private water company
16 primarily for the delivery of water for a non-irrigation use.

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

18 (a) With respect to an irrigation district ~~which~~ THAT was engaged in
19 the withdrawal, delivery and distribution of groundwater as of the date of
20 the designation of the active management area, the area of land within the
21 boundaries of the irrigation district actually being served water by the
22 irrigation district at any time during the five years preceding the date of
23 the designation of the active management area plus any areas ~~as of the date~~
24 ~~of the designation of the active management area within the boundaries of~~
25 ~~the irrigation district~~ ~~which~~ THAT contain an operating system of canals,
26 flumes, ditches and other works owned or operated by the irrigation
27 district. The service area may be modified pursuant to section 45-494.01.

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

31 (i) The acres of member lands within the boundaries of the
32 irrigation district ~~which~~ THAT were legally irrigated at any time from

1 January 1, 1975 through January 1, 1980 for initial active management areas
2 or during the five years preceding the date of the designation of the
3 active management area for subsequent active management areas.

4 (ii) Any areas ~~as of the date of the designation of the active~~
5 ~~management area within the boundaries of the irrigation district which~~ THAT
6 contain an operating system of canals, flumes, ditches and other works for
7 the withdrawal, delivery and distribution of water.

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

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

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

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

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

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

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

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

1 water ~~facility~~ OR WASTEWATER INFRASTRUCTURE, RELATED PROPERTY AND
2 APPURTENANCES OR A NONPOINT SOURCE PROJECT and repayment of the loan as the
3 authority deems proper. Loan agreements may provide for the payment of
4 interest on the unpaid principal balance of the agreement at the rates
5 established in the agreement. The agreement may also provide for payment
6 of the irrigation or water conservation district's proportionate share of
7 the expenses of administering the ~~drinking water~~ revolving fund ~~established~~
8 ~~by section 49-1241~~ THAT IS THE SOURCE OF THE FINANCIAL ASSISTANCE and may
9 provide that the irrigation or water conservation district pay financing
10 and loan administration fees approved by the authority. These costs may be
11 included in the assessment amounts pledged to repay the loan. Districts
12 are bound by and shall fully perform the loan repayment agreements, and the
13 agreements are incontestable after the loan is funded by the
14 authority. The irrigation or water conservation district shall also agree
15 to pay the authority's costs in issuing bonds or otherwise borrowing to
16 fund a loan.

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

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

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

29 H. For the purposes of this section:
30 1. "Authority" means the water infrastructure finance authority of
31 Arizona.

House Amendments to S.B. 1197

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

3 Amend title to conform

And, as so amended, it do pass

GAIL GRIFFIN
CHAIRMAN

1197NATURAL RESOURCES ENERGY WATER
03/22/2022
04:26 PM
C: MYR