

REFERENCE TITLE: water recharge; direct use

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

SB 1600

Introduced by
Senator Shope

AN ACT

AMENDING SECTION 45-802.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 1, SECTION 9; AMENDING SECTION 45-802.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 1, SECTION 10; RELATING TO UNDERGROUND WATER STORAGE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-802.01, Arizona Revised Statutes, as amended
3 by Laws 2019, chapter 1, section 9, is amended to read:

4 45-802.01. Definitions

5 Unless the context otherwise requires, the terms defined in section
6 45-402 have the same meanings in this chapter and:

7 1. "Aquifer" means a geologic formation that contains sufficient
8 saturated material to be capable of storing water and transmitting water
9 in usable quantities to a well.

10 2. "Area of impact" means, as projected on the land surface, the
11 area where the stored water has migrated or is located.

12 3. "CERCLA" means the comprehensive environmental response,
13 compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat.
14 2767; 42 United States Code sections 9601 through 9657), commonly known as
15 "superfund".

16 4. "Constructed underground storage facility" means a facility that
17 meets the requirements of section 45-811.01 and that is designed and
18 constructed to store water underground pursuant to permits issued under
19 this chapter.

20 5. "District" means a groundwater replenishment district
21 established under title 48, chapter 27.

22 6. "District member" means a member of the groundwater
23 replenishment district as provided by title 48, chapter 27.

24 7. "Electrical district" means a corporate body established
25 pursuant to title 48, chapter 12.

26 8. "Existing effluent managed underground storage facility" means a
27 managed underground storage facility that meets one of the following
28 conditions:

29 (a) The facility is operated pursuant to a storage facility permit
30 that the director issued before January 1, 2019 and that authorizes the
31 storage of effluent at the facility.

32 (b) The facility is operated pursuant to a renewed or modified
33 storage facility permit that the director issued after January 1, 2019 if
34 the facility qualified as an existing effluent managed underground storage
35 facility under subdivision (a), (c) or (d) of this paragraph at any time
36 before the renewal or modification.

37 (c) The facility is operated pursuant to a permit that the director
38 issued after January 1, 2019 and that authorizes the storage of effluent
39 at a location where the permit holder was authorized to store effluent
40 pursuant to a storage facility permit that the director issued before
41 January 1, 2019.

42 (d) The facility is operated pursuant to a permit that the director
43 issued after January 1, 2019 and that authorizes the storage of effluent
44 at the facility, and the application to operate the facility was on file
45 with the director as of January 1, 2019.

1 9. "Groundwater savings facility" means a facility that meets the
2 requirements of section 45-812.01 in an active management area or an
3 irrigation non-expansion area at which groundwater withdrawals are
4 eliminated or reduced by recipients who use in lieu water on a
5 gallon-for-gallon substitute basis for groundwater that otherwise would
6 have been pumped from within that active management area or irrigation
7 non-expansion area.

8 10. "In lieu water" means water that is delivered by a storer to a
9 groundwater savings facility pursuant to permits issued under this chapter
10 and that is used in an active management area or an irrigation
11 non-expansion area by the recipient on a gallon-for-gallon substitute
12 basis for groundwater that otherwise would have been pumped from within
13 that active management area or irrigation non-expansion area.

14 11. "Long-term storage account" means an account established
15 pursuant to section 45-852.01.

16 12. "Long-term storage credit" means stored water that meets the
17 requirements of section 45-852.01 and that has been credited to a
18 long-term storage account.

19 13. "Managed underground storage facility" means a facility that
20 meets the requirements of section 45-811.01 and that is designed and
21 managed to utilize the natural channel of a stream to store water
22 underground pursuant to permits issued under this chapter through
23 artificial and controlled releases of water other than surface water
24 naturally present in the stream. Surface water flowing in its natural
25 channel is not a managed underground storage facility.

26 14. "Master replenishment account" means an account established
27 pursuant to section 45-858.01 for a groundwater replenishment district.

28 15. "Recipient" means a person who receives in lieu water for use at
29 a groundwater savings facility.

30 16. "Recoverable amount" means the amount of water, as determined by
31 the director, that will reach the aquifer through water storage.

32 17. "Replenishment" means the storage of water or use of long-term
33 storage credits by a groundwater replenishment district to fulfill its
34 duties under title 48, chapter 27, article 3, by a multi-county water
35 conservation district to fulfill its duties under title 48, chapter 22,
36 article 4 or by an active management area water district to fulfill its
37 duties under title 48, chapter 28, article 7.

38 18. "Reserve target" has the same meaning prescribed in section
39 48-3701.

40 19. "Storage facility" means a groundwater savings facility or an
41 underground storage facility.

42 20. "Stored water" means water that has been stored or saved
43 underground pursuant to a storage permit issued under this chapter.

21. "Storer" means the holder of a water storage permit issued pursuant to section 45-831.01 or a person to whom a water storage permit has been conveyed pursuant to section 45-831.01, subsection F.

22. "Underground storage facility" means a constructed underground storage facility or a managed underground storage facility.

23. "Water that cannot reasonably be used directly" means water that the storer cannot reasonably put to a direct use during the calendar year, including:

(a) Except as provided in subdivision (b) OR (j) OF THIS PARAGRAPH or except for an agricultural improvement district as provided in subdivision (d) OF THIS PARAGRAPH, if the storer is a municipal provider, the amount of central Arizona project water that exceeds the amount of mined groundwater withdrawn during the calendar year by the storer in the active management area in which the storer's service area is located. If the storer withdrew mined groundwater during a calendar year in which the storer stored central Arizona project water underground pursuant to the storage permit, the amount of central Arizona project water stored underground during that year equal to the amount of mined groundwater withdrawn from the active management area in which the storer's service area is located shall not be credited to the storer's long-term storage account but may be considered as being available for recovery by the storer on an annual basis under section 45-851.01. In calculating the amount of mined groundwater withdrawn by the storer from the active management area, the director, at the request of the storer, shall exclude any groundwater withdrawn, treated and delivered for direct use as part of a remedial action undertaken pursuant to CERCLA or title 49, chapter 2, article 5. For the purposes of this subdivision, "mined groundwater" and "municipal provider" have the same meanings prescribed in section 45-561.

(b) If the storer is a municipal provider that has been designated as having an assured water supply pursuant to section 45-576, the amount of central Arizona project water that exceeds the amount of deficit groundwater withdrawn during the calendar year by the storer in the active management area in which the storer's service area is located. If the storer withdrew deficit groundwater during a calendar year in which the storer stored central Arizona project water underground pursuant to the storage permit, the amount of the central Arizona project water stored underground during that year equal to the amount of deficit groundwater withdrawn from the active management area in which the storer's service area is located shall not be credited to the storer's long-term storage account but may be considered as being available for recovery by the storer on an annual basis pursuant to section 45-851.01. In calculating the amount of deficit groundwater withdrawn by the storer from the active management area, the director, at the request of the storer, shall exclude any groundwater withdrawn, treated and delivered for direct use as part of a remedial action undertaken pursuant to CERCLA or title 49, chapter 2,

1 article 5. For the purposes of this subdivision, "municipal provider" has
2 the same meaning prescribed in section 45-561 and "deficit groundwater"
3 means that amount of groundwater withdrawn within an active management
4 area for delivery and use within a service area by a municipal provider in
5 excess of the amount of groundwater that may be withdrawn by the municipal
6 provider consistent with the achievement of the active management area's
7 management goals as prescribed by rules adopted by the director pursuant
8 to section 45-576.

9 (c) Except as provided in subdivision (d) **OF THIS PARAGRAPH**, if the
10 storer is not a municipal provider, the amount of central Arizona project
11 water stored in an active management area that exceeds the amount of
12 groundwater withdrawn during the calendar year by the storer in that
13 active management area. If the storer withdrew groundwater in an active
14 management area during a calendar year in which the storer stored central
15 Arizona project water underground in that active management area pursuant
16 to the storage permit, the amount of central Arizona project water stored
17 underground during that year equal to the amount of groundwater withdrawn
18 from the active management area shall not be credited to the storer's
19 long-term storage account but may be considered as being available for
20 recovery by the storer on an annual basis under section 45-851.01. For
21 the purposes of this subdivision, "municipal provider" has the same
22 meaning prescribed in section 45-561. In calculating the amount of
23 groundwater withdrawn by the storer from the active management area, the
24 director, at the request of the storer, shall exclude:

25 (i) The amount of groundwater withdrawn, treated and delivered for
26 direct use as part of a remedial action undertaken pursuant to CERCLA or
27 title 49, chapter 2, article 5.

28 (ii) The amount of groundwater withdrawn by the storer during the
29 year for mineral extraction and metallurgical processing and delivered
30 during that year for direct use to an irrigation district that is
31 established pursuant to title 48, chapter 19 and that is located in the
32 same active management area from which the amount of groundwater was
33 withdrawn to the extent that the irrigation district or its customers
34 demonstrate a reduction in the amount of groundwater that they otherwise
35 would have withdrawn during that year within the irrigation district.

36 (iii) The amount of groundwater withdrawn by the storer during the
37 year for mineral extraction or metallurgical processing if the storer was
38 engaged in mineral extraction and metallurgical processing within an
39 initial active management area on or before January 1, 2011.

40 (d) The amount of central Arizona project water stored in an active
41 management area in any year after 1994 by an agricultural improvement
42 district established pursuant to title 48, chapter 17 for use at those
43 portions of electrical generating facilities that are constructed or
44 expanded after June 12, 1980, subject to both of the following:

1 (i) If groundwater was used during a year in an active management
2 area at those portions of the electrical generating facilities that were
3 owned and operated by the agricultural improvement district and that were
4 constructed or expanded after June 12, 1980, the amount of the central
5 Arizona project water stored during that year equal to the amount of the
6 groundwater withdrawn during the year for use at those portions of the
7 facilities that were owned and operated by the agricultural improvement
8 district and that were constructed or expanded after June 12, 1980 shall
9 not be credited to the agricultural improvement district's long-term
10 storage account but may be considered as being available for recovery by
11 the agricultural improvement district on an annual basis under section
12 45-851.01.

13 (ii) Long-term storage credits accrued as a result of the storage
14 of the central Arizona project water may be recovered within the active
15 management area by the agricultural improvement district only for the
16 purpose of providing central Arizona project water to electrical
17 generating facilities that were owned and operated by the agricultural
18 improvement district and only pursuant to any water requirement included
19 in a facility's certificate of environmental compatibility. Subject to
20 section 45-854.01, the long-term storage credits may be assigned by the
21 agricultural improvement district only to the owner of an electrical
22 generating facility for use pursuant to any water requirement included in
23 that facility's certificate of environmental compatibility.

24 (e) Surface water made available by dams constructed or modified
25 after August 13, 1986.

26 (f) Effluent.

27 (g) If the storage facility is in an active management area, water
28 from outside the active management area that would not have reached the
29 active management area without the efforts of the storer.

30 (h) If the storage facility is outside of an active management
31 area, water from outside the groundwater basin in which the storage
32 facility is located that would not have reached the groundwater basin
33 without the efforts of the storer.

34 (i) Water that is delivered through the central Arizona project and
35 that is acquired by the Arizona water banking authority.

36 (j) IF THE STORER IS A MUNICIPAL PROVIDER IN AN ACTIVE MANAGEMENT
37 AREA THAT DOES NOT HAVE A MANAGEMENT GOAL OF ACHIEVING OR MAINTAINING A
38 SAFE YIELD CONDITION, THE AMOUNT OF CENTRAL ARIZONA PROJECT WATER STORED
39 UNDERGROUND DURING THE CALENDAR YEAR BY THE STORER IN THE ACTIVE
40 MANAGEMENT AREA IN WHICH THE STORER'S SERVICE AREA IS LOCATED.

41 24. "Water storage" means adding water to an aquifer or saving water
42 in an aquifer pursuant to permits issued under this chapter.

43 25. "Water storage permit" means a permit issued pursuant to section
44 45-831.01 to store water at a storage facility.

1 Sec. 2. Section 45-802.01, Arizona Revised Statutes, as amended by
2 Laws 2019, chapter 1, section 10, is amended to read:

3 45-802.01. Definitions

4 Unless the context otherwise requires, the terms defined in section
5 45-402 have the same meanings in this chapter and:

6 1. "Aquifer" means a geologic formation that contains sufficient
7 saturated material to be capable of storing water and transmitting water
8 in usable quantities to a well.

9 2. "Area of impact" means, as projected on the land surface, the
10 area where the stored water has migrated or is located.

11 3. "CERCLA" means the comprehensive environmental response,
12 compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat.
13 2767; 42 United States Code sections 9601 through 9657), commonly known as
14 "superfund".

15 4. "Constructed underground storage facility" means a facility that
16 meets the requirements of section 45-811.01 and that is designed and
17 constructed to store water underground pursuant to permits issued under
18 this chapter.

19 5. "District" means a groundwater replenishment district
20 established under title 48, chapter 27.

21 6. "District member" means a member of the groundwater
22 replenishment district as provided by title 48, chapter 27.

23 7. "Electrical district" means a corporate body established
24 pursuant to title 48, chapter 12.

25 8. "Existing effluent managed underground storage facility" means a
26 managed underground storage facility that meets one of the following
27 conditions:

28 (a) The facility is operated pursuant to a storage facility permit
29 that the director issued before January 1, 2019 and that authorizes the
30 storage of effluent at the facility.

31 (b) The facility is operated pursuant to a renewed or modified
32 storage facility permit that the director issued after January 1, 2019 if
33 the facility qualified as an existing effluent managed underground storage
34 facility under subdivision (a), (c) or (d) of this paragraph at any time
35 before the renewal or modification.

36 (c) The facility is operated pursuant to a permit that the director
37 issued after January 1, 2019 and that authorizes the storage of effluent
38 at a location where the permit holder was authorized to store effluent
39 pursuant to a storage facility permit that the director issued before
40 January 1, 2019.

41 (d) The facility is operated pursuant to a permit that the director
42 issued after January 1, 2019 and that authorizes the storage of effluent
43 at the facility, and the application to operate the facility was on file
44 with the director as of January 1, 2019.

1 9. "Groundwater savings facility" means a facility that meets the
2 requirements of section 45-812.01 in an active management area or an
3 irrigation non-expansion area at which groundwater withdrawals are
4 eliminated or reduced by recipients who use in lieu water on a
5 gallon-for-gallon substitute basis for groundwater that otherwise would
6 have been pumped from within that active management area or irrigation
7 non-expansion area.

8 10. "In lieu water" means water that is delivered by a storer to a
9 groundwater savings facility pursuant to permits issued under this chapter
10 and that is used in an active management area or an irrigation
11 non-expansion area by the recipient on a gallon-for-gallon substitute
12 basis for groundwater that otherwise would have been pumped from within
13 that active management area or irrigation non-expansion area.

14 11. "Long-term storage account" means an account established
15 pursuant to section 45-852.01.

16 12. "Long-term storage credit" means stored water that meets the
17 requirements of section 45-852.01 and that has been credited to a
18 long-term storage account.

19 13. "Managed underground storage facility" means a facility that
20 meets the requirements of section 45-811.01 and that is designed and
21 managed to utilize the natural channel of a stream to store water
22 underground pursuant to permits issued under this chapter through
23 artificial and controlled releases of water other than surface water
24 naturally present in the stream. Surface water flowing in its natural
25 channel is not a managed underground storage facility.

26 14. "Master replenishment account" means an account established
27 pursuant to section 45-858.01 for a groundwater replenishment district.

28 15. "Recipient" means a person who receives in lieu water for use at
29 a groundwater savings facility.

30 16. "Recoverable amount" means the amount of water, as determined by
31 the director, that will reach the aquifer through water storage.

32 17. "Replenishment" means the storage of water or use of long-term
33 storage credits by a groundwater replenishment district to fulfill its
34 duties under title 48, chapter 27, article 3, by a multi-county water
35 conservation district to fulfill its duties under title 48, chapter 22,
36 article 4 or by an active management area water district to fulfill its
37 duties under title 48, chapter 28, article 7.

38 18. "Reserve target" has the same meaning prescribed in section
39 48-3701.

40 19. "Storage facility" means a groundwater savings facility or an
41 underground storage facility.

42 20. "Stored water" means water that has been stored or saved
43 underground pursuant to a storage permit issued under this chapter.

21. "Storer" means the holder of a water storage permit issued pursuant to section 45-831.01 or a person to whom a water storage permit has been conveyed pursuant to section 45-831.01, subsection F.

22. "Underground storage facility" means a constructed underground storage facility or a managed underground storage facility.

23. "Water that cannot reasonably be used directly" means water that the storer cannot reasonably put to a direct use during the calendar year, including:

(a) Except as provided in subdivision (b) OR (j) OF THIS PARAGRAPH or except for an agricultural improvement district as provided in subdivision (d) OF THIS PARAGRAPH, if the storer is a municipal provider, the amount of central Arizona project water that exceeds the amount of mined groundwater withdrawn during the calendar year by the storer in the active management area in which the storer's service area is located. If the storer withdrew mined groundwater during a calendar year in which the storer stored central Arizona project water underground pursuant to the storage permit, the amount of central Arizona project water stored underground during that year equal to the amount of mined groundwater withdrawn from the active management area in which the storer's service area is located shall not be credited to the storer's long-term storage account but may be considered as being available for recovery by the storer on an annual basis under section 45-851.01. In calculating the amount of mined groundwater withdrawn by the storer from the active management area, the director, at the request of the storer, shall exclude any groundwater withdrawn, treated and delivered for direct use as part of a remedial action undertaken pursuant to CERCLA or title 49, chapter 2, article 5. For the purposes of this subdivision, "mined groundwater" and "municipal provider" have the same meanings prescribed in section 45-561.

(b) If the storer is a municipal provider that has been designated as having an assured water supply pursuant to section 45-576, the amount of central Arizona project water that exceeds the amount of deficit groundwater withdrawn during the calendar year by the storer in the active management area in which the storer's service area is located. If the storer withdrew deficit groundwater during a calendar year in which the storer stored central Arizona project water underground pursuant to the storage permit, the amount of the central Arizona project water stored underground during that year equal to the amount of deficit groundwater withdrawn from the active management area in which the storer's service area is located shall not be credited to the storer's long-term storage account but may be considered as being available for recovery by the storer on an annual basis pursuant to section 45-851.01. In calculating the amount of deficit groundwater withdrawn by the storer from the active management area, the director, at the request of the storer, shall exclude any groundwater withdrawn, treated and delivered for direct use as part of a remedial action undertaken pursuant to CERCLA or title 49, chapter 2,

1 article 5. For the purposes of this subdivision, "municipal provider" has
2 the same meaning prescribed in section 45-561 and "deficit groundwater"
3 means that amount of groundwater withdrawn within an active management
4 area for delivery and use within a service area by a municipal provider in
5 excess of the amount of groundwater that may be withdrawn by the municipal
6 provider consistent with the achievement of the active management area's
7 management goals as prescribed by rules adopted by the director pursuant
8 to section 45-576.

9 (c) Except as provided in subdivision (d) **OF THIS PARAGRAPH**, if the
10 storer is not a municipal provider, the amount of central Arizona project
11 water stored in an active management area that exceeds the amount of
12 groundwater withdrawn during the calendar year by the storer in that
13 active management area. If the storer withdrew groundwater in an active
14 management area during a calendar year in which the storer stored central
15 Arizona project water underground in that active management area pursuant
16 to the storage permit, the amount of central Arizona project water stored
17 underground during that year equal to the amount of groundwater withdrawn
18 from the active management area shall not be credited to the storer's
19 long-term storage account but may be considered as being available for
20 recovery by the storer on an annual basis under section 45-851.01. For
21 the purposes of this subdivision, "municipal provider" has the same
22 meaning prescribed in section 45-561. In calculating the amount of
23 groundwater withdrawn by the storer from the active management area, the
24 director, at the request of the storer, shall exclude:

25 (i) The amount of any groundwater withdrawn, treated and delivered
26 for direct use as part of a remedial action undertaken pursuant to CERCLA
27 or title 49, chapter 2, article 5.

28 (ii) The amount of groundwater withdrawn by the storer during the
29 year for mineral extraction or metallurgical processing if the storer was
30 engaged in mineral extraction and metallurgical processing within an
31 initial active management area on or before January 1, 2011.

32 (d) The amount of central Arizona project water stored in an active
33 management area in any year after 1994 by an agricultural improvement
34 district established pursuant to title 48, chapter 17 for use at those
35 portions of electrical generating facilities that are constructed or
36 expanded after June 12, 1980, subject to both of the following:

37 (i) If groundwater was used during a year in an active management
38 area at those portions of the electrical generating facilities that were
39 owned and operated by the agricultural improvement district and that were
40 constructed or expanded after June 12, 1980, the amount of the central
41 Arizona project water stored during that year equal to the amount of the
42 groundwater withdrawn during the year for use at those portions of the
43 facilities that were owned and operated by the agricultural improvement
44 district and that were constructed or expanded after June 12, 1980 shall
45 not be credited to the agricultural improvement district's long-term

1 storage account but may be considered as being available for recovery by
2 the agricultural improvement district on an annual basis under section
3 45-851.01.

4 (ii) Long-term storage credits accrued as a result of the storage
5 of the central Arizona project water may be recovered within the active
6 management area by the agricultural improvement district only for the
7 purpose of providing central Arizona project water to electrical
8 generating facilities that were owned and operated by the agricultural
9 improvement district and only pursuant to any water requirement included
10 in a facility's certificate of environmental compatibility. Subject to
11 section 45-854.01, the long-term storage credits may be assigned by the
12 agricultural improvement district only to the owner of an electrical
13 generating facility for use pursuant to any water requirement included in
14 that facility's certificate of environmental compatibility.

15 (e) Surface water made available by dams constructed or modified
16 after August 13, 1986.

17 (f) Effluent.

18 (g) If the storage facility is in an active management area, water
19 from outside the active management area that would not have reached the
20 active management area without the efforts of the storer.

21 (h) If the storage facility is outside of an active management
22 area, water from outside the groundwater basin in which the storage
23 facility is located that would not have reached the groundwater basin
24 without the efforts of the storer.

25 (i) Water that is delivered through the central Arizona project and
26 that is acquired by the Arizona water banking authority.

27 (j) IF THE STORER IS A MUNICIPAL PROVIDER IN AN ACTIVE MANAGEMENT
28 AREA THAT DOES NOT HAVE A MANAGEMENT GOAL OF ACHIEVING OR MAINTAINING A
29 SAFE YIELD CONDITION, THE AMOUNT OF CENTRAL ARIZONA PROJECT WATER STORED
30 UNDERGROUND DURING THE CALENDAR YEAR BY THE STORER IN THE ACTIVE
31 MANAGEMENT AREA IN WHICH THE STORER'S SERVICE AREA IS LOCATED.

32 24. "Water storage" means adding water to an aquifer or saving water
33 in an aquifer pursuant to permits issued under this chapter.

34 25. "Water storage permit" means a permit issued pursuant to section
35 45-831.01 to store water at a storage facility.

36 Sec. 3. Effective date

37 Section 45-802.01, Arizona Revised Statutes, as amended by Laws
38 2019, chapter 1, section 10 and this act, is effective from and after
39 December 31, 2024.