



## ARIZONA STATE SENATE

### Fifty-Sixth Legislature, First Regular Session

#### AMENDED FACT SHEET FOR S.B. 1432

assured water; small residential developments..

#### Purpose

An emergency measure that requires the Director of the Arizona Department of Water Resources (ADWR) to study and submit a report on whether and how a building permit applicant for six or more residences within an active management area (AMA) should apply for and obtain a certificate of assured water supply. Outlines requirements of a city or town that provides water service through an intergovernmental agreement (IGA) with a standpipe district for a period of up to three years by use of a standpipe for water hauling to residences outside the city's or town's water service area that do not have access to sufficient water.

#### Background

The Arizona Groundwater Management Act of 1980 designated AMAs to conserve, protect and allocate the use of groundwater resources in Arizona and to provide a framework for the comprehensive management and regulation of the withdrawal, transportation, use, conservation and conveyance of rights to use the groundwater in Arizona ([A.R.S. § 45-401](#)). An AMA is a geographical area that has been designated as requiring active management of groundwater, or in the case of the Santa Cruz AMA, active management of any water, other than stored water, withdrawn from a well ([A.R.S. § 45-402](#)).

The Director of the ADWR designates a municipality or private water company in an AMA as having an assured water supply if the municipality or private water company meets the criteria of an assured water supply. If a person proposes to offer subdivided lands for sale or lease in an AMA, the person must first apply for and obtain a Certificate of Assured Water Supply from ADWR or a written commitment of water service for the subdivision from a city, town or private water company designated as having an assured water supply. A city, town or county may only approve a subdivision plat if the subdivider has obtained a Certificate of Assured Water Supply from ADWR, or the subdivider has obtained written commitment of water service for the subdivision from a city, town or private water company designated as having an assured water supply ([A.R.S. § 45-576](#)).

An *assured water supply* is sufficient groundwater, surface water or effluent of adequate quality that will be continuously available to satisfy the water needs of the proposed use for at least 100 years that is consistent with the management plan and achievement of the management goal for the AMA and that the financial capability has been demonstrated to construct the water facilities necessary for the proposed uses, including a delivery system and any storage facilities or treatment works ([A.R.S. § 45-576](#)).

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

Provisions

***Report of Building Permit Applications***

1. Requires the Director of the ADWR to study and submit to the Governor, the President of the Senate and the Speaker of the House of Representatives a report on whether and how a person that seeks a building permit for six or more residences within an AMA, without regard to any proposed lease term for those residences, should apply for and obtain a certificate of assured water supply before presenting the permit application for approval, unless the applicant has obtained a written commitment of water service for the residences from a city, town or private water company designated as having an assured water supply.

***Standpipe Service***

2. Requires a city or town that provides water service to provide water service through an IGA with a standpipe district for a period of not more than three years by use of a standpipe for water hauling to residences outside the city's or town's water service area that do not have access to sufficient water if:
  - a) the number of impacted residences to be serviced is up to 750 and the residences are in an area within a standpipe district and adjacent to the city or town;
  - b) the city or town previously provided water service to the residences that do not have access to sufficient water;
  - c) there is no other adequate source of water for those persons within 10 miles of their residences;
  - d) the city or town is reimbursed for the full reasonable costs of providing and delivering the water;
  - e) the impacted area is in a county with a population of more than 750,000 persons; and
  - f) providing the water at the standpipe does not, without the city's or town's consent, reduce the amount of water available to residences and businesses within the city's or town's water service area with whom the city or town has directly contracted to provide water through means other than hauling water.
3. Requires the standpipe district to enter into an IGA with the city or town, and the IGA to provide that the standpipe district agrees to be responsible for:
  - a) delivering water to water haulers serving members of the standpipe district;
  - b) paying the city or town for the full costs of providing the water to the residences eligible to receive water services, either directly or through one or more third parties;
  - c) billing the residences for the costs of the water being received, either directly or through one or more third parties;
  - d) providing an annual amount of water, either directly or through one or more third parties, to the residences that may exceed the annual amount of water the residences in the area previously received if the additional amounts do not violate the IGA;
  - e) implementing and enforcing any necessary water conservation measures, if the annual amount of water provided to the IGA is exceeded; and
  - f) working to identify a long-term solution for the water needs of the area.
4. States that self-hauling of water is allowed.

5. Requires the executed IGA to indemnify the city or town with respect to any actions taken or occurrences after water is provided at the standpipe.
6. States that the provision of water service outside the city or town and the IGA are contingent on a standpipe district obtaining a source of water from a third party absent a city's or town's consent to use the city's or town's own source of water.
7. Caps, at 750, the number of residences allowed to receive water from any standpipe district.
8. Allows a city or town to reduce or suspend the amount of water provided if water becomes unavailable from a third party.
9. Exempts a city or town from liability to any person or entity for providing or failing to provide water.
10. Stipulates that the requirement for water service does not:
  - a) preclude execution or implementation of a voluntary agreement before the effective date; or
  - b) apply if such a voluntary agreement results in adequate water being supplied to the residences that would otherwise be served.
11. Allows property owners in the impacted area to join, or not join, the standpipe district.
12. Requires the standpipe district to only provide water to the members of the standpipe district.
13. Requires the standpipe district to be governed by a five-person Board of Directors (Board) who are members of the standpipe district.
14. Requires appointments to be made within 14 days of the occurrence of the development of a standpipe district, or if such conditions already exist as of the effective date, within 14 days after the effective date.
15. Requires the Board to consist of five members, one of whom is appointed by each of the following:
  - a) Speaker of the House of Representatives;
  - b) President of the Senate
  - c) Governor and who serves at the pleasure of the Governor;
  - d) Commissioner of the Arizona Real Estate Department and who serves at the pleasure of the commissioner of the Arizona Real Estate Department; and
  - e) Director of the ADWR and who serves at the pleasure of the Director of the ADWR.
16. Prohibits a standpipe district from having powers other than those expressly contemplated by statute.
17. Allows the standpipe district to levy a reasonable and minimal surcharge on the price of water to reimburse the standpipe district for costs of billing and administration and other reasonable expenses.
18. Prohibits the surcharge from exceeding 10 percent of a customer's bill without the unanimous approval of the Board.

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19. Exempts a standpipe district from eminent domain.
20. States that a standpipe district in the impacted area, in the event that the conditions set forth apply to an area, begins to exist when a majority of members of its Board are appointed.

***Miscellaneous***

21. Repeals the requirements relating to water service outside a city or town on January 1, 2026.
22. Becomes effective on signature of the Governor, if the emergency clause is enacted.

**Amendments Adopted by the House of Representatives**

1. Adds the requirement for the Director of the ADWR to study and submit a report on whether and how a building permit applicant for six or more residences within an AMA should apply for and obtain a certificate of assured water supply.
2. Outlines requirements of a city or town that provides water service through an IGA with a standpipe district for a period of up to three years by use of a standpipe for water hauling to residences outside the city's or town's water service area that do not have access to sufficient water.
3. Adds an emergency clause.

**Senate Action**

NREW	2/16/23	DP	7-0-0
3 <sup>rd</sup> Read	2/22/23		28-1-1

**House Action**

NREW	3/28/23	DP	10-0-0-0
3 <sup>rd</sup> Read	6/12/23		40-20-0

Prepared by Senate Research

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RA/slp