

REFERENCE TITLE: basin management areas; appropriation

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1221

Introduced by
Senator Kerr: Representative Griffin

AN ACT

AMENDING TITLE 45, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLES 3.1 AND 3.2; AMENDING SECTION 49-1270, ARIZONA REVISED STATUTES; APPROPRIATING MONIES; RELATING TO GROUNDWATER.

(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 2, Arizona Revised Statutes, is
3 amended by adding articles 3.1 and 3.2, to read:

4 ARTICLE 3.1. BASIN MANAGEMENT AREAS

5 45-445. Basin management area; initiation procedures;
6 petition; definition

7 A. THE DESIGNATION OF A BASIN MANAGEMENT AREA IN ANY LOCATION THAT
8 IS NOT INCLUDED IN AN ACTIVE MANAGEMENT AREA AND SUBJECT TO THE
9 JURISDICTION OF THIS STATE MAY BE INITIATED BY PETITION TO THE DIRECTOR
10 SIGNED BY AT LEAST FIFTEEN PERCENT OF THE REGISTERED VOTERS WHO RESIDE
11 WITHIN THE BOUNDARIES OF THE GROUNDWATER BASIN OR SUBBASIN SPECIFIED IN
12 THE PETITION AS OF THE MOST RECENT REPORT COMPILED BY THE COUNTY RECORDER
13 IN COMPLIANCE WITH SECTION 16-168, SUBSECTION H AND WHO RECEIVE THEIR
14 DRINKING WATER FROM THE GROUNDWATER BASIN OR SUBBASIN. A BASIN MANAGEMENT
15 AREA ESTABLISHED PURSUANT TO THIS ARTICLE MAY INCLUDE MORE THAN ONE
16 GROUNDWATER SUBBASIN BUT MAY NOT BE SMALLER THAN A GROUNDWATER SUBBASIN OR
17 INCLUDE ONLY A PORTION OF A GROUNDWATER SUBBASIN.

18 B. IF A GROUNDWATER BASIN OR SUBBASIN IS LOCATED IN TWO OR MORE
19 COUNTIES, THE NUMBER OF REGISTERED VOTERS REQUIRED TO SIGN THE PETITION
20 SHALL BE AT LEAST FIFTEEN PERCENT OF THE REGISTERED VOTERS WHO RESIDE
21 WITHIN THE BOUNDARIES OF THE GROUNDWATER BASIN OR SUBBASIN, AS OF THE MOST
22 RECENT REPORT COMPILED BY THE COUNTY RECORDER IN COMPLIANCE WITH SECTION
23 16-168, SUBSECTION H AND WHO RECEIVE THEIR DRINKING WATER FROM THE
24 GROUNDWATER BASIN OR SUBBASIN.

25 C. THE FORM OF THE PETITION SHALL BE SUBSTANTIALLY SIMILAR TO AN
26 INITIATIVE PETITION, AND THE APPLICANT FOR THE PETITION SHALL COMPLY WITH
27 SECTION 19-111, SUBSECTIONS A, B AND E, EXCEPT THAT THE DUTIES REQUIRED OF
28 THE SECRETARY OF STATE SHALL BE PERFORMED BY THE COUNTY RECORDERS OF THE
29 COUNTIES IN WHICH THE REGISTERED VOTERS OF THE GROUNDWATER BASIN OR
30 SUBBASIN RESIDE. A PETITION MAY NOT BE ACCEPTED MORE THAN ONE HUNDRED
31 EIGHTY DAYS AFTER THE DATE OF SUBMISSION OF THE APPLICATION FOR
32 PETITION. FOR THE PURPOSES OF THIS SECTION, ON REQUEST OF A COUNTY
33 RECORDER, THE DIRECTOR SHALL TRANSMIT TO THE COUNTY RECORDER ANY FACTUAL
34 DATA CONCERNING THE BOUNDARIES OF THE GROUNDWATER BASIN OR SUBBASIN THAT
35 MAY AID THE COUNTY RECORDER IN DETERMINING WHICH REGISTERED VOTERS OF THE
36 COUNTY ARE RESIDENTS AND, FOR THE PURPOSES OF THIS SECTION, ARE ELIGIBLE
37 VOTERS OF THE GROUNDWATER BASIN OR SUBBASIN. THE TRANSMITTED DATA SHALL
38 INCLUDE A MAP OF THE RESIDENCES THAT RECEIVE DRINKING WATER FROM THE
39 GROUNDWATER BASIN OR SUBBASIN. IF RESIDENCY OR THE ORIGIN OF A RESIDENT'S
40 DRINKING WATER IS NOT VERIFIED, THE BALLOT SHALL REMAIN UNOPENED AND BE
41 DESTROYED.

42 D. AFTER RECEIVING AN APPLICATION FOR PETITION SIGNED BY ELIGIBLE
43 VOTERS PURSUANT TO SUBSECTION A OF THIS SECTION, THE DIRECTOR SHALL
44 DETERMINE WHETHER THE GROUNDWATER BASIN OR SUBBASIN SUBJECT TO THE
45 PETITION MEETS BOTH OF THE FOLLOWING CONDITIONS:

1 1. LAND SUBSIDENCE WITHIN THE GROUNDWATER BASIN OR SUBBASIN DUE TO
2 GROUNDWATER WITHDRAWAL IS ENDANGERING PROPERTY OR POTENTIAL GROUNDWATER
3 STORAGE CAPACITY.

4 2. THERE HAS BEEN ACCELERATED DECLINE IN WATER LEVELS WITHIN THE
5 GROUNDWATER BASIN OR SUBBASIN OVER THE PRECEDING FIVE YEARS AS MEASURED BY
6 AT LEAST TEN INDEX WELLS. FOR THE PURPOSES OF THIS PARAGRAPH:

7 (a) THE DIRECTOR SHALL SELECT INDEX WELLS ACROSS THE GROUNDWATER
8 BASIN OR SUBBASIN TO COLLECT A BASIN-WIDE REPRESENTATIVE SAMPLE.

9 (b) EACH INDEX WELL MUST SHOW AN ACCELERATED DECLINE OF TEN FEET OR
10 MORE ANNUALLY.

11 E. IF THE DIRECTOR DETERMINES THAT THE GROUNDWATER BASIN OR
12 SUBBASIN SUBJECT TO THE PETITION MEETS THE REQUIREMENTS PRESCRIBED IN
13 SUBSECTION D OF THIS SECTION, THE DIRECTOR SHALL CONDUCT A COST BENEFIT
14 ANALYSIS OF THE INCREASED WATER MANAGEMENT TO DETERMINE IF THE PROBABLE
15 BENEFITS TO BUSINESSES DIRECTLY AFFECTED BY THE PROPOSED WATER MANAGEMENT
16 OUTWEIGH THE COSTS. THE DIRECTOR MAY HIRE AN OUTSIDE CONTRACTOR TO
17 CONDUCT THE COST BENEFIT ANALYSIS. IF THE DIRECTOR DETERMINES THAT THE
18 PROBABLE BENEFITS OUTWEIGH THE PROBABLE COSTS, THE DIRECTOR SHALL TRANSMIT
19 THE PETITION TO THE COUNTY BOARD OF SUPERVISORS IN EACH COUNTY IN WHICH
20 THE GROUNDWATER BASIN OR SUBBASIN SUBJECT TO THE PETITION IS LOCATED AND
21 SHALL TRANSMIT A MAP OF THE GROUNDWATER BASIN OR SUBBASIN TO THE COUNTY
22 RECORDER OF EACH SUCH COUNTY. THE MAP SHALL BE ON A SCALE ADEQUATE TO
23 SHOW WITH SUBSTANTIAL ACCURACY WHERE THE BOUNDARIES OF THE GROUNDWATER
24 BASIN OR SUBBASIN CROSS THE BOUNDARIES OF COUNTY VOTING PRECINCTS.

25 F. ON RECEIPT OF A PETITION THAT HAS BEEN SIGNED BY A SUFFICIENT
26 NUMBER OF ELIGIBLE PETITIONERS AS DETERMINED BY THE APPLICABLE COUNTY
27 RECORDERS PURSUANT TO SUBSECTION A OF THIS SECTION AND THAT HAS BEEN
28 APPROVED BY THE DIRECTOR PURSUANT TO SUBSECTIONS D AND E OF THIS SECTION,
29 A COUNTY BOARD OF SUPERVISORS SHALL HOLD A PUBLIC MEETING PURSUANT TO
30 SECTION 11-214 TO APPROVE OR DENY THE PETITION. AN AFFIRMATIVE VOTE OF
31 ALL MEMBERS OF EACH BOARD IS REQUIRED TO APPROVE THE PETITION.

32 G. ON APPROVAL OF THE PETITION BY EACH BOARD OF SUPERVISORS, THE
33 DEPARTMENT SHALL HOLD AT LEAST THREE MEETINGS AS PRESCRIBED IN SECTION
34 45-445.01.

35 H. FOR THE PURPOSES OF THIS SECTION, "LAND SUBSIDENCE":

36 1. MEANS THE SETTLING OR LOWERING OF THE SURFACE OF LAND THAT
37 RESULTS FROM THE WITHDRAWAL OF GROUNDWATER.

38 2. DOES NOT INCLUDE THE SETTLING OF THE ALLUVIUM OF A RIVER
39 CHANNEL.

40 45-445.01. Meetings; boundaries; notice; establishment

41 A. IF A PETITION THAT IS FILED PURSUANT TO SECTION 45-445 RECEIVES
42 APPROVAL OR THE DIRECTOR DECLARES ALL BASINS OR SUBBASINS IN AN IRRIGATION
43 NON-EXPANSION AREA AS A BASIN MANAGEMENT AREA PURSUANT TO SECTION
44 45-445.05, THE DIRECTOR SHALL HOLD A SERIES OF PUBLIC MEETINGS AS FOLLOWS:

1 1. THE DIRECTOR SHALL GIVE REASONABLE NOTICE OF EACH MEETING,
2 INCLUDING PUBLISHING THE NOTICE ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS
3 IN A NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY IN WHICH THE PROPOSED
4 BASIN MANAGEMENT AREA IS LOCATED. THE DIRECTOR AND THE COUNTIES IN WHICH
5 THE PROPOSED BASIN MANAGEMENT AREA IS LOCATED SHALL POST THE NOTICE ON THE
6 DEPARTMENT'S AND COUNTIES' WEBSITES. THE NOTICE SHALL CONTAIN THE TIME
7 AND PLACE OF THE MEETING, THE LEGAL DESCRIPTION AND A MAP CLEARLY
8 IDENTIFYING AND DESCRIBING ALL LANDS TO BE INCLUDED IN THE PROPOSED BASIN
9 MANAGEMENT AREA AND ANY OTHER INFORMATION THE DIRECTOR DEEMS NECESSARY.

10 2. THE FIRST AND SECOND MEETINGS SHALL BE HELD AT A LOCATION IN THE
11 COUNTY IN WHICH THE MAJOR PORTION OF THE PROPOSED BASIN MANAGEMENT AREA IS
12 LOCATED NOT MORE THAN SIXTY DAYS AFTER THE FIRST PUBLICATION OF THE NOTICE
13 OF THE MEETING. AT THE MEETING, THE DIRECTOR SHALL PRESENT ANY DATA ON
14 GROUNDWATER LEVELS FOR THE PROPOSED BASIN MANAGEMENT AREA FROM THE
15 DEPARTMENT AND SHALL DESCRIBE THE EFFECTS OF THE PROPOSED FORMATION OF THE
16 BASIN MANAGEMENT AREA, INCLUDING THE RESULTS OF THE COST BENEFIT ANALYSIS
17 CONDUCTED PURSUANT TO SECTION 45-445, THE COST OF APPLICATIONS THAT USERS
18 MAY SUBMIT TO THE DEPARTMENT AND THE EFFECTS OF WATER CONSERVATION. ANY
19 PERSON MAY APPEAR AT THE MEETING, EITHER IN PERSON OR BY REPRESENTATIVE,
20 AND MAY SUBMIT ORAL OR DOCUMENTARY INFORMATION REGARDING THE PROPOSED
21 ACTION OR ANY SECONDARY MODELING CHALLENGING THE MODELING COMPLETED BY THE
22 DEPARTMENT PURSUANT TO SECTION 45-445, SUBSECTION D OR E.

23 3. THE THIRD MEETING SHALL BE A MEETING OF A JOINT LEGISLATIVE
24 COMMITTEE CONSISTING OF ALL MEMBERS OF THE HOUSE OF REPRESENTATIVES
25 NATURAL RESOURCES, ENERGY AND WATER COMMITTEE AND THE SENATE NATURAL
26 RESOURCES, ENERGY AND WATER COMMITTEE, OR THEIR SUCCESSOR COMMITTEES. THE
27 CHAIRPERSON OF THE HOUSE OF REPRESENTATIVES NATURAL RESOURCES, ENERGY AND
28 WATER COMMITTEE, OR THE CHAIRPERSON'S DESIGNEE, AND THE CHAIRPERSON OF THE
29 SENATE NATURAL RESOURCES, ENERGY AND WATER COMMITTEE, OR THE CHAIRPERSON'S
30 DESIGNEE, SHALL SERVE AS COCHAIRPERSONS. AT THE MEETING, THE DIRECTOR
31 SHALL PRESENT ANY DATA ON GROUNDWATER LEVELS FOR THE PROPOSED BASIN
32 MANAGEMENT AREA FROM THE DEPARTMENT AND SHALL DESCRIBE THE EFFECTS OF THE
33 PROPOSED FORMATION OF THE BASIN MANAGEMENT AREA. ANY PERSON MAY APPEAR AT
34 THE MEETING, EITHER IN PERSON OR BY REPRESENTATIVE, AND MAY SUBMIT ORAL OR
35 DOCUMENTARY INFORMATION REGARDING THE PROPOSED ACTION OR ANY SECONDARY
36 MODELING CHALLENGING THE MODELING COMPLETED BY THE DEPARTMENT PURSUANT TO
37 SECTION 45-445, SUBSECTION D OR E.

38 B. WITHIN FIFTEEN DAYS AFTER THE JOINT LEGISLATIVE MEETING
39 PRESCRIBED IN SUBSECTION A, PARAGRAPH 3 OF THIS SECTION ADJOURNS, THE
40 DIRECTOR SHALL MAKE A DETERMINATION AS TO THE FOLLOWING:

41 1. WHETHER THE GROUNDWATER BASIN OR SUBBASIN CONTINUES TO MEET THE
42 REQUIREMENTS OF SECTION 45-445, SUBSECTION D.

43 2. WHETHER THE PROBABLE BENEFITS OF INCREASED WATER MANAGEMENT TO
44 THE REGULATED BUSINESSES CONTINUE TO OUTWEIGH THE PROBABLE COSTS.

1 3. WHETHER THE PROCEDURES OUTLINED IN SECTION 45-445 AND THIS
2 SECTION HAVE BEEN COMPLIED WITH.

3 C. A PARTY MAY SEEK JUDICIAL REVIEW OF THE DIRECTOR'S DETERMINATION
4 PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

5 D. IF THE DIRECTOR DETERMINES PURSUANT TO SUBSECTION B OF THIS
6 SECTION THAT ALL REQUIREMENTS HAVE BEEN COMPLIED WITH, NO CHALLENGE HAS
7 BEEN FILED PURSUANT TO SUBSECTION C OF THIS SECTION OR A FINAL DECISION
8 HAS BEEN ISSUED IN FAVOR OF THE DEPARTMENT AND ALL CONDITIONS HAVE BEEN
9 MET, THE DIRECTOR SHALL DECLARE A BASIN MANAGEMENT AREA ESTABLISHED AND
10 FILE A TRUE MAP OF THE BASIN MANAGEMENT AREA IN THE OFFICE OF THE COUNTY
11 RECORDER OF THE COUNTY OR COUNTIES IN WHICH THE BASIN MANAGEMENT AREA IS
12 LOCATED.

13 45-445.02. Basin management areas; certificate of groundwater
14 rights; groundwater users; annual report

15 A. WITHIN FIFTEEN MONTHS AFTER A BASIN MANAGEMENT AREA IS
16 ESTABLISHED, THE DIRECTOR SHALL GRANT TO EACH WATER USER WHO APPLIES FOR A
17 CERTIFICATE OF GROUNDWATER RIGHTS A CERTIFICATE THAT ENTITLES THE USER TO
18 USE THE ANNUAL ALLOCATED AMOUNT OF WATER AS FOLLOWS:

19 1. FOR MUNICIPAL, INDUSTRIAL OR RESIDENTIAL USERS, ON APPLICATION
20 THE DIRECTOR SHALL GRANT THE USER A CERTIFICATE OF GROUNDWATER RIGHTS THAT
21 IS CONSISTENT WITH THE USER'S HIGHEST LEVEL OF GROUNDWATER USE IN ACRE
22 FEET IN ANY ONE YEAR IN THE FIVE PRECEDING YEARS BEFORE FORMATION OF THE
23 BASIN MANAGEMENT AREA.

24 2. FOR AGRICULTURAL USERS, THE DIRECTOR SHALL GRANT THE USER A
25 CERTIFICATE OF GROUNDWATER RIGHTS THAT IS CONSISTENT WITH THE HIGHER OF
26 EITHER:

27 (a) THE AVERAGE USE OF THE AGRICULTURAL GROUNDWATER USER IN ACRE
28 FEET OVER THE PRECEDING TEN YEARS BEFORE FORMATION OF THE BASIN MANAGEMENT
29 AREA.

30 (b) THE MEDIAN USE OF THE AGRICULTURAL GROUNDWATER USER IN
31 ACRE-Feet OVER THE PRECEDING TEN YEARS BEFORE FORMATION OF THE BASIN
32 MANAGEMENT AREA.

33 B. THE DEPARTMENT SHALL INCREASE THE AMOUNT OF WATER ENTITLED TO A
34 USER VIA A CERTIFICATE OF GROUNDWATER RIGHTS IF THE USER HAS MADE
35 SUBSTANTIAL CAPITAL INVESTMENT IN THE TWELVE MONTHS BEFORE THE PETITION IS
36 CIRCULATED FOR A BASIN MANAGEMENT AREA DESIGNATION. FOR THE PURPOSES OF
37 THIS SUBSECTION, "SUBSTANTIAL CAPITAL INVESTMENT" INCLUDES APPLICATIONS
38 FOR REZONING OR OTHER PERMITS, THE ACQUISITION OF LEASED RIGHT-OF-WAYS AND
39 THE IMPROVEMENT OF LAND, INFRASTRUCTURE OR ON-SITE IRRIGATION DISTRIBUTION
40 FACILITIES, INCLUDING THE DRILLING OF WELLS.

41 C. FOR PLANNED RESIDENTIAL OR MIXED-USE DEVELOPMENTS THAT HAVE BEEN
42 APPROVED BY THE APPLICABLE ZONING AUTHORITY, THE LANDOWNER SHALL BE
43 GRANTED A CERTIFICATE OF GROUNDWATER RIGHTS EQUAL TO THE PROJECTED WATER
44 DEMAND OF THE DEVELOPMENT AT BUILD OUT.

1 D. BEGINNING AFTER A BASIN MANAGEMENT AREA PETITION IS APPROVED,
2 NEW GROUNDWATER PUMPING MAY NOT OCCUR IN THE BASIN MANAGEMENT AREA, EXCEPT
3 THAT A USER WITH A CERTIFICATE OF GROUNDWATER RIGHTS MAY RETIRE OR
4 DIMINISH THE GROUNDWATER USER'S WITHDRAWAL FROM AN EXISTING WELL AND
5 WITHDRAW AN EQUAL AMOUNT OF GROUNDWATER FROM A REPLACEMENT WELL OR
6 EXISTING WELL FOR THE SAME USE CONSISTENT WITH THE GROUNDWATER USER'S
7 CERTIFICATED GROUNDWATER RIGHT ON THE SAME PROPERTY OR MAY DO ANY OF THE
8 FOLLOWING AS LONG AS THERE REMAINS A NET BENEFIT OF TEN PERCENT OR MORE TO
9 THE AQUIFER:

10 1. WITHDRAW INTENTIONALLY RECHARGED WATER.

11 2. CONVERT THE CERTIFICATED GROUNDWATER USER'S WATER USE TO A
12 DIFFERENT TYPE AND WITHDRAW AND USE GROUNDWATER ON THE SAME PROPERTY FOR A
13 DIFFERENT USE.

14 3. ROLL OVER A PORTION OF THE USER'S UNUSED ALLOCATION OF
15 GROUNDWATER RIGHTS INTO A SUBSEQUENT USE ON THE USER'S PROPERTY.

16 4. EXTINGUISH OR TRANSFER THE USER'S CERTIFICATED GROUNDWATER
17 RIGHT'S WATER TO ANY ALTERNATIVE USE IN THE SAME GROUNDWATER BASIN OR
18 SUBBASIN. A USER THAT SELLS OR LEASES ANY PORTION OF THE USER'S LAND MAY
19 TRANSFER ALL OR ANY PORTION OF THE USER'S UNUSED ALLOCATION WITH THE LAND.

20 E. THE DEPARTMENT MAY NOT REQUIRE A GROUNDWATER USER TO METER ANY
21 WELLS LOCATED IN A BASIN MANAGEMENT AREA OR TO REPORT THE USER'S
22 GROUNDWATER USE BEYOND THE REQUIREMENTS PRESCRIBED IN SUBSECTION F OF THIS
23 SECTION.

24 F. A GROUNDWATER USER SHALL ANNUALLY REPORT TO THE DEPARTMENT AN
25 ESTIMATE OF GROUNDWATER USE BASED ON PUMPING CAPACITY AND THE POWER USAGE
26 OF THE USER'S GROUNDWATER PUMPING OR OTHER SIMILARLY RELIABLE AND
27 ACCESSIBLE METHODS. FOR THE PURPOSES OF THIS SUBSECTION, A USER MAY
28 VOLUNTARILY ACQUIRE AND REPORT METERING DATA.

29 G. FOR THE PURPOSES OF THIS ARTICLE, ANY DATA OR ESTIMATE A PERSON
30 SUBMITS REGARDING A PERSON'S GROUNDWATER USE IS NOT A PUBLIC RECORD UNDER
31 TITLE 39, CHAPTER 1 AND MAY NOT BE DISCLOSED UNLESS THE GROUNDWATER USER
32 CONSENTS TO DISCLOSURE. IF A GROUNDWATER USER VOLUNTARILY SUBMITS
33 EVIDENCE OF WATER CONSERVATION, THE DEPARTMENT SHALL ISSUE THE WATER USER
34 A RECEIPT OF WATER CONSERVATION ACKNOWLEDGING THE AMOUNT OF WATER
35 CONSERVED. IF AN ACTIVE BASIN MANAGEMENT COUNCIL IS FORMED PURSUANT TO
36 ARTICLE 3.2 OF THIS CHAPTER, THE DEPARTMENT SHALL PROVIDE THE COUNCIL WITH
37 A COPY OF ALL PAST AND FUTURE RECEIPTS GRANTED IN THE GROUNDWATER BASIN OR
38 SUBBASIN PURSUANT TO THIS SECTION.

39 45-445.03. Basin management areas; withdrawals of groundwater
40 right; flexibility account; conveyances; rules;
41 extinguishment

42 A. A PERSON WHO IS ENTITLED TO USE GROUNDWATER PURSUANT TO A
43 CERTIFICATE OF GROUNDWATER RIGHT MAY:

44 1. USE GROUNDWATER IN EXCESS OF THE AMOUNT ALLOWED BY THE RIGHT IN
45 AN AMOUNT DETERMINED PURSUANT TO SUBSECTION E OF THIS SECTION.

1 2. USE LESS THAN THE AMOUNT ALLOWED BY THE RIGHT IN ONE ACCOUNTING
2 PERIOD AND USE THE REMAINING AMOUNT ALLOWED BY THE RIGHT IN A SUCCEEDING
3 ACCOUNTING PERIOD OR PERIODS.

4 B. THE DIRECTOR SHALL ESTABLISH RULES FOR THE MAINTENANCE OF A
5 FLEXIBILITY ACCOUNT FOR EACH CERTIFICATE OF GROUNDWATER RIGHT IN A BASIN
6 MANAGEMENT AREA.

7 C. IF A PERSON WHO IS ENTITLED TO USE GROUNDWATER PURSUANT TO A
8 CERTIFICATE OF GROUNDWATER RIGHT USES SOLELY GROUNDWATER DURING ANY
9 ACCOUNTING PERIOD, THE DIRECTOR SHALL:

10 1. REGISTER A DEBIT TO THE ACCOUNT IF THE AMOUNT OF GROUNDWATER
11 USED DURING THE ACCOUNTING PERIOD IS GREATER THAN THE AMOUNT OF THE ANNUAL
12 ALLOCATION OF WATER GRANTED PURSUANT TO A CERTIFICATE OF GROUNDWATER RIGHT
13 OR THE AMOUNT OF WATER THAT THE PERSON IS ENTITLED TO USE UNDER AN ACTIVE
14 BASIN MANAGEMENT AREA MANAGEMENT PLAN PURSUANT TO SECTION 45-446.01.

15 2. REGISTER A CREDIT TO THE ACCOUNT IF THE AMOUNT OF GROUNDWATER
16 USED DURING THE ACCOUNTING PERIOD IS LESS THAN THE AMOUNT OF THE ANNUAL
17 ALLOCATION OF WATER GRANTED PURSUANT TO A CERTIFICATE OF GROUNDWATER RIGHT
18 OR THE AMOUNT OF WATER THAT THE PERSON IS ENTITLED TO USE UNDER AN ACTIVE
19 BASIN MANAGEMENT AREA MANAGEMENT PLAN PURSUANT TO SECTION 45-446.01.

20 D. IF A PERSON WHO IS ENTITLED TO USE GROUNDWATER PURSUANT TO A
21 CERTIFICATE OF GROUNDWATER RIGHT USES A COMBINATION OF SURFACE WATER,
22 EFFLUENT OR GROUNDWATER OR ANY COMBINATION THEREOF AND USES OF WATER BY
23 THE PERSON FROM ALL SOURCES, EXCEPT FOR SURFACE WATER, OTHER THAN COLORADO
24 RIVER WATER, RELEASED FOR BENEFICIAL USE FROM STORAGE, DIVERSION OR
25 DISTRIBUTION FACILITIES TO AVOID SPILLING THAT WOULD OTHERWISE OCCUR DUE
26 TO UNCONTROLLED SURFACE WATER INFLOWS THAT EXCEED FACILITY CAPACITY, IN
27 THE ACCOUNTING PERIOD:

28 1. EXCEED THE AMOUNT OF THE ANNUAL ALLOCATION OF WATER GRANTED
29 PURSUANT TO THE CERTIFICATE OF GROUNDWATER RIGHT OR THE AMOUNT OF WATER
30 THAT THE PERSON IS ENTITLED TO USE UNDER AN ACTIVE BASIN MANAGEMENT AREA
31 MANAGEMENT PLAN PURSUANT TO SECTION 45-446.01, THE AMOUNT OF GROUNDWATER
32 USED UP TO THE AMOUNT OF THE EXCESS, LESS ANY EFFLUENT USED, SHALL BE
33 REGISTERED AS A DEBIT TO THE ACCOUNT.

34 2. ARE LESS THAN THE AMOUNT OF THE ANNUAL ALLOCATION OF WATER
35 GRANTED PURSUANT TO THE CERTIFICATE OF GROUNDWATER RIGHT OR THE AMOUNT OF
36 WATER THAT THE PERSON IS ENTITLED TO USE UNDER AN ACTIVE BASIN MANAGEMENT
37 AREA MANAGEMENT PLAN PURSUANT TO SECTION 45-446.01, THE AMOUNT OF WATER
38 NOT USED THAT WOULD HAVE BEEN GROUNDWATER SHALL BE REGISTERED AS A CREDIT
39 TO THE ACCOUNT.

40 E. THE MAXIMUM EXCESS AMOUNT OF GROUNDWATER THAT A PERSON MAY USE
41 PURSUANT TO THIS SECTION SHALL BE EQUAL TO FIFTY PERCENT OF THE ANNUAL
42 ALLOCATION OF WATER GRANTED PURSUANT TO A CERTIFICATE OF GROUNDWATER
43 RIGHT. AN OWNER OF A CERTIFICATE OF GROUNDWATER RIGHT AND THE PERSON
44 USING GROUNDWATER PURSUANT TO THE RIGHT ARE DEEMED TO VIOLATE THIS SECTION
45 IF THE FLEXIBILITY ACCOUNT FOR THE RIGHT IS IN ARREARS AT ANY TIME IN

1 EXCESS OF THIS AMOUNT. GROUNDWATER EQUAL TO THE CREDIT BALANCE IN THE
2 FLEXIBILITY ACCOUNT MAY BE USED AT ANY TIME.

3 F. IF A CERTIFICATE OF GROUNDWATER RIGHT IS CONVEYED IN WHOLE OR IN
4 PART, EACH ACRE-FOOT CONVEYED SHALL CARRY WITH IT A PROPORTIONAL SHARE OF
5 ANY DEBITS OR CREDITS IN THE FLEXIBILITY ACCOUNT FOR THE RIGHT.

6 G. EACH PERSON WHO OWNS A CERTIFICATE OF GROUNDWATER RIGHT AND
7 WHOSE RIGHT HAS REGISTERED A CREDIT BALANCE TO ITS FLEXIBILITY ACCOUNT MAY
8 CONVEY OR SELL ALL OR A PORTION OF THE CREDIT BALANCE TO ANY PERSON,
9 INCLUDING THE CONVEYOR OR SELLER OF THE CREDIT BALANCE, WHO OWNS ANOTHER
10 CERTIFICATE OF GROUNDWATER RIGHT IN THE SAME GROUNDWATER BASIN OR
11 SUBBASIN. A PERSON WHO SELLS OR CONVEYS ALL OR A PORTION OF A CREDIT
12 BALANCE PURSUANT TO THIS SUBSECTION, AND THE PERSON TO WHOM THE CREDIT
13 BALANCE IS SOLD OR CONVEYED, SHALL NOTIFY THE DIRECTOR OF THE SALE OR
14 CONVEYANCE WITHIN THIRTY DAYS AFTER THE SALE OR CONVEYANCE ON A FORM
15 PRESCRIBED AND FURNISHED BY THE DIRECTOR.

16 H. A SALE OR CONVEYANCE OF ALL OR PART OF A CREDIT BALANCE UNDER
17 SUBSECTION G OF THIS SECTION IS EFFECTIVE ONLY IF THE DIRECTOR RECEIVES
18 THE NOTICE REQUIRED BY SUBSECTION G OF THIS SECTION WITHIN THIRTY DAYS
19 AFTER THE SALE OR CONVEYANCE. AFTER RECEIVING THE NOTICE, THE DIRECTOR
20 SHALL REGISTER A DEDUCTION OF THE CREDIT AMOUNT CONVEYED OR SOLD FROM THE
21 CONVEYOR'S OR SELLER'S FLEXIBILITY ACCOUNT BALANCE AND THE CORRESPONDING
22 ADDITION TO THE CONVEYEE'S OR PURCHASER'S FLEXIBILITY ACCOUNT BALANCE.
23 THE DEDUCTION AND ADDITION TO THE FLEXIBILITY ACCOUNT BALANCES ARE
24 EFFECTIVE AS OF THE DATE OF THE SALE OR CONVEYANCE.

25 I. EACH PERSON WHO OWNS A CERTIFICATE OF GROUNDWATER RIGHT AND
26 WHOSE RIGHT HAS REGISTERED A CREDIT BALANCE TO ITS FLEXIBILITY ACCOUNT MAY
27 EXTINGUISH ALL OR A PORTION OF THE CREDIT BALANCE. THE PERSON WHO
28 EXTINGUISHES ALL OR A PORTION OF A CREDIT BALANCE PURSUANT TO THIS
29 SUBSECTION SHALL NOTIFY THE DIRECTOR OF THE EXTINGUISHMENT ON A FORM
30 PRESCRIBED AND FURNISHED BY THE DIRECTOR.

31 J. THE EXTINGUISHMENT OF ALL OR PART OF A CREDIT BALANCE UNDER
32 SUBSECTION I OF THIS SECTION IS EFFECTIVE AS OF THE DATE THE DIRECTOR
33 RECEIVES THE NOTICE REQUIRED BY SUBSECTION I OF THIS SECTION. AFTER
34 RECEIVING THE NOTICE, THE DIRECTOR SHALL REGISTER A DEDUCTION OF THE
35 CREDIT AMOUNT EXTINGUISHED FROM THE FLEXIBILITY ACCOUNT BALANCE OF THE
36 PERSON WHO EXTINGUISHED THE CREDIT BALANCE.

37 45-445.04. Basin management; active management area;
38 prohibition

39 THE DIRECTOR OR THE VOTERS OF A BASIN MANAGEMENT AREA MAY NOT
40 DESIGNATE A BASIN MANAGEMENT AREA AS AN ACTIVE MANAGEMENT AREA OR
41 IRRIGATION NON-EXPANSION AREA.

42 45-445.05. Irrigation non-expansion area to basin management
43 area

44 IF A BASIN MANAGEMENT AREA IS ESTABLISHED PURSUANT TO THIS ARTICLE
45 IN AN AREA THAT WAS PREVIOUSLY DESIGNATED AS AN IRRIGATION NON-EXPANSION

1 AREA, THE DIRECTOR SHALL DECLARE ALL BASINS OR SUBBASINS IN THE IRRIGATION
2 NON-EXPANSION AREA AS A BASIN MANAGEMENT AREA AND THE IRRIGATION
3 NON-EXPANSION AREA AND ANY REGULATIONS ADOPTED PURSUANT TO THE DESIGNATION
4 AS AN IRRIGATION NON-EXPANSION TERMINATE.

5 45-445.06. Preemption; groundwater transportation

6 THIS ARTICLE DOES NOT PREEMPT THE TRANSPORTATION OF GROUNDWATER
7 PURSUANT TO ARTICLES 8 AND 8.1 OF THIS CHAPTER.

8 ARTICLE 3.2. ACTIVE BASIN MANAGEMENT

9 45-446. Active basin management area; initiation procedures;
10 election; map

11 A. THE DESIGNATION OF AN ACTIVE BASIN MANAGEMENT AREA IN ANY
12 LOCATION THAT IS DESIGNATED A BASIN MANAGEMENT AREA PURSUANT TO ARTICLE
13 3.1 OF THIS CHAPTER MAY BE INITIATED BY A UNANIMOUS VOTE OF ALL BOARDS OF
14 SUPERVISORS WITH GEOGRAPHIC BOUNDARIES WITHIN THE GROUNDWATER BASIN OR
15 SUBBASIN. IF ALL SUPERVISORS VOTE TO DESIGNATE AN ACTIVE BASIN MANAGEMENT
16 AREA, THE COUNTY BOARD OF SUPERVISORS SHALL CALL FOR AN ELECTION ON THE
17 QUESTION OF DESIGNATING AN ACTIVE BASIN MANAGEMENT AREA WITH BOUNDARIES
18 THAT ARE COTERMINOUS WITH THE BOUNDARIES OF THE GROUNDWATER BASIN OR
19 SUBBASIN DESIGNATED AS A BASIN MANAGEMENT AREA AND FOR THE ELECTION OF
20 THREE ACTIVE BASIN MANAGEMENT COUNCIL MEMBERS. IF THE PROPOSED ACTIVE
21 BASIN MANAGEMENT AREA IS LOCATED IN MORE THAN ONE COUNTY, THE RESPECTIVE
22 COUNTIES SHALL COOPERATE TO ADMINISTER THE ELECTION. NOTWITHSTANDING ANY
23 OTHER LAW, THE ELECTION SHALL BE CONDUCTED AS PRESCRIBED IN TITLE 16,
24 CHAPTER 4, ARTICLE 8.1, EXCEPT THAT THE ELECTION SHALL INCLUDE ONLY
25 REGISTERED VOTERS WHO RESIDE INSIDE THE BOUNDARIES OF THE PROPOSED ACTIVE
26 BASIN MANAGEMENT AREA AND WHO RECEIVE THEIR DRINKING WATER FROM THE
27 GROUNDWATER BASIN OR SUBBASIN AS ELIGIBLE VOTERS.

28 B. THE BALLOT SHALL BE WORDED "SHOULD THE (INSERT THE NAME OF
29 GROUNDWATER BASIN OR SUBBASIN) BE DESIGNATED AN ACTIVE BASIN MANAGEMENT
30 AREA?" FOLLOWED BY THE WORDS "YES" AND "NO".

31 C. CANDIDATES FOR AN ACTIVE BASIN MANAGEMENT COUNCIL SHALL FILE
32 NOMINATION PETITIONS WITH THE DIRECTOR IN THE MANNER PRESCRIBED BY THE
33 DIRECTOR. ANY QUALIFIED ELECTOR OF THE PROPOSED ACTIVE BASIN MANAGEMENT
34 AREA MAY SIGN THE PETITIONS OF NOT MORE THAN THREE CANDIDATES. THE NAMES
35 OF CANDIDATES SHALL APPEAR ON THE ELECTION BALLOT IN ALPHABETICAL ORDER BY
36 SURNAMES, WITH A SQUARE OPPOSITE EACH NAME, AND AN INSTRUCTION TO MARK AN
37 X IN THE SQUARES OPPOSITE THE NAMES OF NOT MORE THAN THREE CANDIDATES FOR
38 WHOM THE VOTER WISHES TO VOTE.

39 D. IF A MAJORITY OF THE ELIGIBLE VOTERS VOTING ON THE QUESTION
40 APPROVES THE FORMATION OF THE ACTIVE BASIN MANAGEMENT AREA, THE DIRECTOR
41 SHALL HOLD THREE PUBLIC MEETINGS, MAKE THE NECESSARY DETERMINATION AND
42 ALLOW FOR CHALLENGES AS PRESCRIBED IN SECTION 45-445.01, EXCEPT THE
43 DIRECTOR SHALL DESCRIBE THE EFFECTS OF THE PROPOSED FORMATION OF AN ACTIVE
44 BASIN MANAGEMENT AREA AND MAKE A DETERMINATION CONSISTENT WITH THE
45 PROCEDURES PRESCRIBED IN THIS ARTICLE. AFTER THE ACTIVE BASIN MANAGEMENT

1 AREA IS ESTABLISHED, THE DIRECTOR SHALL FILE A TRUE COPY OF THE MAP OF THE
2 ACTIVE BASIN MANAGEMENT AREA IN THE OFFICE OF THE COUNTY RECORDER OF THE
3 COUNTY OR COUNTIES IN WHICH THE ACTIVE BASIN MANAGEMENT AREA IS LOCATED.

4 E. THE THREE CANDIDATES WHO RECEIVE THE HIGHEST NUMBER OF VOTES AT
5 THE ELECTION FOR THE ACTIVE BASIN MANAGEMENT COUNCIL MEMBERS SHALL BE
6 DECLARED ELECTED. THE COUNCIL MEMBERS' TERMS SHALL BEGIN ON THE DATE OF
7 FILING THE OATH OF OFFICE WITH THE SECRETARY OF STATE AND THE CANDIDATES
8 SHALL SERVE FOUR YEAR TERMS.

9 45-446.01. Active basin management council; members; term;
10 duties

11 A. AN ACTIVE BASIN MANAGEMENT COUNCIL SHALL BE ESTABLISHED IN EACH
12 ACTIVE BASIN MANAGEMENT AREA CONSISTING OF THE FOLLOWING FIVE MEMBERS WHO
13 RESIDE WITHIN THE BOUNDARIES OF THE ACTIVE BASIN MANAGEMENT AREA AND WHO
14 RECEIVE THEIR DRINKING WATER FROM THE GROUNDWATER BASIN OR SUBBASIN:

15 1. THREE MEMBERS WHO ARE ELECTED PURSUANT TO SECTION 45-446.

16 2. TWO MEMBERS WHO ARE APPOINTED BY THE IRRIGATION DISTRICTS WHOSE
17 BOUNDARIES OVERLAP WITH THE ACTIVE BASIN MANAGEMENT AREA. IF NO
18 IRRIGATION DISTRICTS OVERLAP WITH THE BOUNDARIES OF THE ACTIVE BASIN
19 MANAGEMENT AREA, THE IRRIGATION DISTRICT WHOSE BOUNDARIES ARE CLOSEST TO
20 THOSE OF THE ACTIVE BASIN MANAGEMENT AREA SHALL APPOINT THESE COUNCIL
21 MEMBERS.

22 B. IF A COUNCIL MEMBER POSITION IS VACATED, THE APPOINTING
23 AUTHORITY SHALL IMMEDIATELY APPOINT A NEW MEMBER. IF AN ELECTED COUNCIL
24 MEMBER IS REMOVED, THE VOTERS SHALL ELECT A REPLACEMENT AT THE NEXT
25 REGULARLY SCHEDULED ELECTION. A REPLACEMENT MEMBER'S TERM SHALL END AT
26 THE SAME TIME AS THE REPLACED MEMBER'S TERM.

27 C. ACTIVE BASIN MANAGEMENT COUNCIL MEMBERS SERVE FOUR-YEAR TERMS.

28 D. ACTIVE BASIN MANAGEMENT COUNCIL MEMBERS ARE NOT ELIGIBLE TO
29 RECEIVE COMPENSATION BUT ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES
30 PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2.

31 E. THE ACTIVE BASIN MANAGEMENT COUNCIL SHALL:

32 1. SELECT A CHAIRPERSON FROM THE COUNCIL'S MEMBERSHIP.

33 2. MEET AS OFTEN AS THE CHAIRPERSON DEEMS NECESSARY.

34 3. HOLD AT LEAST TWO PUBLIC MEETINGS IN THE BASIN OR SUBBASIN AND
35 ALLOW PUBLIC COMMENT BEFORE ADOPTING AN ACTIVE BASIN MANAGEMENT AREA
36 MANAGEMENT PLAN.

37 4. SUBMIT A PROPOSED MANAGEMENT PLAN TO THE CHAIRPERSONS OF THE
38 HOUSE OF REPRESENTATIVES AND SENATE NATURAL RESOURCES, ENERGY AND WATER
39 COMMITTEES, OR THEIR SUCCESSOR COMMITTEES, BEFORE ADOPTING A MANAGEMENT
40 PLAN.

41 5. ON REQUEST OF THE CHAIRPERSON OF THE HOUSE OF REPRESENTATIVES OR
42 SENATE NATURAL RESOURCES AND ENERGY COMMITTEE, OR ITS SUCCESSOR COMMITTEE,
43 ATTEND A JOINT LEGISLATIVE HEARING TO EVALUATE A PROPOSED MANAGEMENT PLAN.

1 6. IN CONJUNCTION WITH THE DEPARTMENT, APPLY FOR AND DISTRIBUTE
2 GRANTS FOR WATER CONSERVATION, WATER AUGMENTATION OR WATER SYSTEM UPGRADES
3 WITHIN THE ACTIVE BASIN MANAGEMENT AREA. MONIES AWARDED PURSUANT TO THIS
4 PARAGRAPH SHALL BE DISTRIBUTED EQUITABLY ACROSS ALL SECTORS.

5 7. SUBMIT A PLAN FOR WATER MANAGEMENT TO THE DIRECTOR. THE PLAN
6 SHALL BE CONSISTENT WITH THE MANAGEMENT GOALS OF AN ACTIVE BASIN
7 MANAGEMENT AREA AND MUST BE APPROVED BY ALL MEMBERS OF THE COUNCIL. THE
8 PLAN MAY NOT REQUIRE MORE THAN A TWO PERCENT ANNUAL REDUCTION IN A WATER
9 USER'S ORIGINAL ALLOTMENT GRANTED PURSUANT TO A CERTIFICATED GROUNDWATER
10 RIGHT OR PROHIBIT A GROUNDWATER USER FROM WITHDRAWING INTENTIONALLY
11 CREATED GROUNDWATER RECHARGE, INCLUDING EFFLUENT WITH A TEN PERCENT NET
12 BENEFIT TO THE AQUIFER. THE PLAN SHALL REQUIRE ANY ANNUAL REDUCTION IN
13 WATER USE TO BE EQUAL IN PERCENTAGE FOR ALL USERS WITH A CERTIFICATED
14 GROUNDWATER RIGHT. THE PLAN MAY NOT REQUIRE A WATER USER TO REDUCE ANNUAL
15 WATER USE BY AN AMOUNT GREATER THAN TEN PERCENT OF THE ANNUAL ALLOCATION
16 OF WATER THAT THE USER IS ENTITLED TO PURSUANT TO A CERTIFICATE OF
17 GROUNDWATER RIGHTS ISSUED PURSUANT TO SECTION 45-445.02 AT ANY TIME DURING
18 THE TERM OF AN ACTIVE BASIN MANAGEMENT AREA, INCLUDING DURING ANY
19 SUBSEQUENT TERM OF THE ACTIVE MANAGEMENT AREA AND MAY NOT REQUIRE ANY
20 WATER USER TO ACHIEVE TOTAL WATER USE REDUCTIONS IN INCREMENTS GREATER
21 THAN TWO PERCENT PER YEAR.

22 8. PROVIDE EDUCATION TO WATER USERS AND THE PUBLIC ON EFFICIENT
23 WATER MANAGEMENT AND CONSERVATION.

24 F. AN ACTIVE BASIN MANAGEMENT COUNCIL MAY HAVE ONLY THOSE POWERS
25 GIVEN TO IT BY STATUTE AND MAY EXERCISE THE POWERS OF THE COUNCIL,
26 INCLUDING THE SUBMISSION AND ADOPTION OF AN ACTIVE BASIN MANAGEMENT AREA
27 MANAGEMENT PLAN, ONLY ON AN UNANIMOUS VOTE OF THE COUNCIL. UNLESS
28 OTHERWISE AUTHORIZED BY LAW, THE DIRECTOR MAY NOT TAKE ANY ACTION IN AN
29 ACTIVE BASIN MANAGEMENT AREA NOT RECOMMENDED BY THE COUNCIL.

30 45-446.02. Active basin management areas; goals

31 THE GOALS OF AN ACTIVE BASIN MANAGEMENT AREA AND AN ACTIVE BASIN
32 MANAGEMENT COUNCIL MAY BE ANY OF THE FOLLOWING AS DETERMINED BY THE
33 COUNCIL:

34 1. TO PROTECT THE ECONOMY WHILE CONSIDERING THE NEED TO PRESERVE
35 GROUNDWATER FOR FUTURE NON-IRRIGATION USES.

36 2. TO GATHER AND OBTAIN A BETTER UNDERSTANDING OF THE GROUNDWATER
37 BASIN OR SUBBASIN AND AQUIFER HEALTH BY INSTALLING INDEX WELLS AND
38 PROMOTING WATER USERS IN THE GROUNDWATER BASIN TO VOLUNTARILY PROVIDE
39 GROUNDWATER DATA TO THE COUNCIL.

40 3. TO PRESERVE EXISTING GROUNDWATER USES IN THE GROUNDWATER BASIN
41 OR SUBBASIN WHILE ALLOWING THE DEVELOPMENT OF OTHER USES AND PRESERVING
42 FUTURE WATER SUPPLIES FOR OTHER USES.

43 4. TO REDUCE THE RATE OF AQUIFER DEPLETION, FROM THE CURRENT
44 DEPLETION RATE AT THE TIME AN ACTIVE BASIN MANAGEMENT AREA IS ESTABLISHED
45 TO A SET RATE BY A SET YEAR AS DETERMINED BY THE COUNCIL.

1 5. TO ADDRESS THE ANNUAL AVERAGE DEPTH-TO-STATIC LEVEL ACROSS THE
2 GROUNDWATER BASIN OR SUBBASIN FROM DROPPING BELOW A SET LEVEL AND, IF THE
3 AVERAGE DEPTH-TO-STATIC LEVEL DROPS BELOW THE SET LEVEL, TO BRING THE
4 AVERAGE DEPTH-TO-STATIC LEVEL BACK TO THE SET LEVEL WITHIN TWO YEARS AFTER
5 THE CONTINUATION OR TERMINATION OF THE COUNCIL.

6 6. TO MAINTAIN GROUNDWATER PROGRAMS IN THE GROUNDWATER BASIN OR
7 SUBBASIN THAT PROVIDE REASONABLE ACCESS TO A SUPPLY OF WATER TO MEET
8 REASONABLE COMMERCIAL AND BASIC DOMESTIC NEEDS.

9 7. TO INCREASE THE TOTAL AMOUNT OF NATURAL, INCIDENTAL OR
10 ARTIFICIAL RECHARGE IN THE GROUNDWATER BASIN OR SUBBASIN EACH YEAR, FROM A
11 SET LEVEL IN ACRE-FEET PER YEAR TO A HIGHER SET LEVEL IN ACRE-FEET PER
12 YEAR, BY A SET YEAR AS DETERMINED BY THE COUNCIL.

13 8. TO INCREASE THE TOTAL AMOUNT OF WATER REUSE IN THE GROUNDWATER
14 BASIN OR SUBBASE EACH YEAR, FROM A SET LEVEL IN ACRE-FEET PER YEAR TO A
15 HIGHER SET LEVEL IN ACRE-FEET PER YEAR, BY A SET YEAR AS DETERMINED BY THE
16 COUNCIL.

17 45-446.03. Active basin management area; right to water;
18 annual report; termination and continuation

19 A. THE DESIGNATION OF AN ACTIVE BASIN MANAGEMENT AREA MAY NOT
20 INFRINGE ON A WATER USER'S CERTIFICATED WATER RIGHTS GRANTED PURSUANT TO
21 SECTION 45-445.02, EXCEPT THAT AN ACTIVE BASIN MANAGEMENT COUNCIL MAY
22 REQUIRE NOT MORE THAN A TWO PERCENT ANNUAL REDUCTION IN WATER USE AS PART
23 OF AN ACTIVE BASIN MANAGEMENT AREA MANAGEMENT PLAN. A WATER USE IN AN
24 ACTIVE BASIN MANAGEMENT AREA MAY TRANSFER THE USER'S WATER RIGHTS PURSUANT
25 TO SECTION 45-445.02, SUBSECTION D, PARAGRAPH 4 OR USE GROUNDWATER
26 PURSUANT TO SECTION 45-445.02, SUBSECTION D.

27 B. THE DEPARTMENT:

28 1. IN CONJUNCTION WITH AN ACTIVE BASIN MANAGEMENT COUNCIL, SHALL
29 ANNUALLY REVIEW THE STATUS OF GROUNDWATER IN THE ACTIVE BASIN MANAGEMENT
30 AREA AND SHALL ESTIMATE THE AMOUNT OF ANY CHANGE IN GROUNDWATER LEVELS IN
31 THE AREA.

32 2. SHALL SUBMIT AN ANNUAL REPORT, ON OR BEFORE FEBRUARY 1 OF EACH
33 YEAR, OF THE DEPARTMENT'S FINDINGS TO THE ACTIVE BASIN MANAGEMENT COUNCIL.

34 3. MAY NOT REQUIRE A GROUNDWATER USER TO METER ANY WELLS LOCATED IN
35 AN ACTIVE BASIN MANAGEMENT AREA.

36 4. MAY NOT REQUIRE A GROUNDWATER USER TO REPORT THE USER'S
37 GROUNDWATER USE BEYOND THE REQUIREMENTS PRESCRIBED IN SUBSECTION D OF THIS
38 SECTION.

39 C. AN ACTIVE BASIN MANAGEMENT COUNCIL ESTABLISHED PURSUANT TO THIS
40 ARTICLE MAY NOT:

41 1. REQUIRE A GROUNDWATER USER TO METER ANY WELLS LOCATED IN AN
42 ACTIVE BASIN MANAGEMENT AREA.

43 2. REQUIRE A GROUNDWATER USER TO REPORT THE USER'S GROUNDWATER USE
44 BEYOND THE REQUIREMENTS PRESCRIBED IN SUBSECTION D OF THIS SECTION.

1 D. A GROUNDWATER USER SHALL ANNUALLY REPORT TO THE ACTIVE BASIN
2 MANAGEMENT COUNCIL AN ESTIMATE OF GROUNDWATER USE BASED ON PUMPING
3 CAPACITY AND THE POWER USAGE OF THE USER'S GROUNDWATER PUMPING OR OTHER
4 SIMILARLY RELIABLE AND ACCESSIBLE METHODS. FOR THE PURPOSES OF THIS
5 PARAGRAPH, A USER MAY VOLUNTARILY ACQUIRE AND REPORT METERING DATA.

6 E. FOR THE PURPOSES OF THIS ARTICLE, ANY DATA OR ESTIMATE A PERSON
7 SUBMITS REGARDING A PERSON'S GROUNDWATER USE IS NOT A PUBLIC RECORD UNDER
8 TITLE 39, CHAPTER 1 AND MAY NOT BE DISCLOSED UNLESS THE GROUNDWATER USER
9 CONSENTS TO DISCLOSURE.

10 F. AN ACTIVE BASIN MANAGEMENT AREA AND ACTIVE BASIN MANAGEMENT
11 COUNCIL TERMINATE TEN YEARS AFTER THE DATE ON WHICH THE ACTIVE BASIN
12 MANAGEMENT AREA WAS ESTABLISHED UNLESS CONTINUED PURSUANT TO THIS SECTION.
13 IF THE DIRECTOR DETERMINES EITHER THAT THE ACTIVE BASIN MANAGEMENT AREA NO
14 LONGER MEETS THE CONDITIONS PRESCRIBED IN SECTION 45-445, SUBSECTION D
15 PURSUANT TO SUBSECTION G OF THIS SECTION OR, PURSUANT TO THE COST BENEFIT
16 ANALYSIS, THAT THE COST OUTWEIGHS THE PROJECTED BENEFITS, THE ACTIVE BASIN
17 MANAGEMENT AREA SHALL IMMEDIATELY TERMINATE. A PARTY MAY SEEK JUDICIAL
18 REVIEW OF THE DIRECTOR'S DETERMINATIONS PURSUANT TO TITLE 12, CHAPTER 7,
19 ARTICLE 6.

20 G. TWENTY-FOUR MONTHS BEFORE THE EXPECTED TERMINATION OF AN ACTIVE
21 BASIN MANAGEMENT AREA, THE DIRECTOR SHALL:

22 1. DETERMINE IF THE ACTIVE BASIN MANAGEMENT AREA CONTINUES TO MEET
23 THE CONDITIONS PRESCRIBED IN SECTION 45-445, SUBSECTION D.

24 2. DETERMINE IF THE PROBABLE BENEFITS TO BUSINESS DIRECTLY AFFECTED
25 BY THE PROPOSED WATER MANAGEMENT AUTHORIZED BY THIS ARTICLE OUTWEIGH THE
26 COSTS. FOR THE PURPOSES OF THIS PARAGRAPH, THE DIRECTOR MAY HIRE AN
27 OUTSIDE CONTRACTOR TO CONDUCT THE COST BENEFIT ANALYSIS.

28 3. PRESENT THE DIRECTOR'S DETERMINATIONS TO THE ACTIVE BASIN
29 MANAGEMENT COUNCIL. TWELVE MONTHS BEFORE THE TERMINATION OF AN ACTIVE
30 BASIN MANAGEMENT AREA THE REGISTERED VOTERS OF THE ACTIVE BASIN MANAGEMENT
31 AREA MAY VOTE TO CONTINUE THE ACTIVE BASIN MANAGEMENT AREA AND ACTIVE
32 BASIN MANAGEMENT COUNCIL IF THE GROUNDWATER BASIN OR SUBBASIN CONTINUES TO
33 MEET THE CONDITIONS PRESCRIBED IN SECTION 45-445, SUBSECTION D AND THE
34 COST BENEFIT ANALYSIS CONDUCTED PURSUANT TO PARAGRAPH 2 OF THIS SUBSECTION
35 INDICATES THE BENEFITS OF MANAGEMENT OUTWEIGH THE RISKS. AN ACTIVE BASIN
36 MANAGEMENT COUNCIL MAY ORDER THE COUNTY RECORDERS WHERE THE ACTIVE BASIN
37 MANAGEMENT AREA IS LOCATED TO HOLD AN ELECTION ASKING IF THE ACTIVE BASIN
38 MANAGEMENT AREA SHOULD BE CONTINUED AND CALLING FOR THE ELECTION OF THE
39 ELECTED MEMBERS OF AN ACTIVE BASIN MANAGEMENT COUNCIL.

40 H. AN ELECTION TO CONTINUE AN ACTIVE BASIN MANAGEMENT AREA SHALL BE
41 CONDUCTED AS PRESCRIBED IN TITLE 16, CHAPTER 4, ARTICLE 8.1, EXCEPT THAT
42 THE ELECTION SHALL INCLUDE ONLY REGISTERED VOTERS WHO RESIDE INSIDE THE
43 BOUNDARIES OF THE PROPOSED ACTIVE BASIN MANAGEMENT AREA AND WHO RECEIVE
44 THEIR DRINKING WATER FROM THE BASIN OR SUBBASIN AS ELIGIBLE VOTERS.

1 CANDIDATES FOR AN ACTIVE BASIN MANAGEMENT COUNCIL SHALL COMPLY WITH
2 SECTION 45-446.

3 I. IF AN ACTIVE BASIN MANAGEMENT AREA IS NOT CONTINUED OR
4 TERMINATES, THE ACTIVE BASIN MANAGEMENT AREA REVERTS TO A BASIN MANAGEMENT
5 AREA AS PRESCRIBED IN ARTICLE 3.1 OF THIS CHAPTER AND ANY MANAGEMENT PLAN
6 ADOPTED BY THE TERMINATED ACTIVE BASIN MANAGEMENT COUNCIL IS
7 UNENFORCEABLE. A WATER USER SHALL HAVE THE SAME CERTIFICATED GROUNDWATER
8 RIGHT GUARANTEED TO THE WATER USER BEFORE THE FORMATION OF THE ACTIVE
9 BASIN MANAGEMENT AREA.

10 45-446.04. Active basin management area; active management
11 area; prohibition

12 THE DIRECTOR OR VOTERS OF AN ACTIVE BASIN MANAGEMENT AREA MAY NOT
13 DESIGNATE AN ACTIVE BASIN MANAGEMENT AREA AS AN ACTIVE MANAGEMENT AREA OR
14 AS AN IRRIGATION NON-EXPANSION AREA.

15 45-446.05. Preemption; groundwater transportation

16 THIS ARTICLE DOES NOT PREEMPT THE TRANSPORTATION OF GROUNDWATER
17 PURSUANT TO ARTICLES 8 AND 8.1 OF THIS CHAPTER.

18 Sec. 2. Section 49-1270, Arizona Revised Statutes, is amended to
19 read:

20 49-1270. Definitions

21 In this article, unless the context otherwise requires:

22 1. "Eligible entity" means any of the following:

23 (a) A water provider that distributes or sells water outside of the
24 boundaries of an initial active management area in which part of the
25 central Arizona project aqueduct is located.

26 (b) Any city, town, county, district, commission, authority or
27 other public entity that is organized and that exists under the statutory
28 law of this state or under a voter-approved charter or initiative of this
29 state that is located outside of the boundaries of an initial active
30 management area in which part of the central Arizona project aqueduct is
31 located.

32 (c) AN ACTIVE BASIN MANAGEMENT COUNCIL ESTABLISHED PURSUANT TO
33 TITLE 45, CHAPTER 2, ARTICLE 3.2.

34 2. "Loan" means leases, loans or other evidence of indebtedness for
35 water supply development purposes issued from the water supply development
36 revolving fund.

37 3. "Loan repayment agreement" means an agreement to repay a loan
38 issued from the water supply development revolving fund entered into by an
39 eligible entity.

40 4. "Water supply development revolving fund" or "fund" means the
41 water supply development revolving fund established by section 49-1271.

42 Sec. 3. Department of water resources; use of monies;
43 appropriation; grants; exemption

44 A. The department of water resources shall use monies appropriated
45 in the statewide water resources planning line item pursuant to Laws 2023,

1 chapter 133, section 97 only to fund water conservation measures in a
2 basin management area established pursuant to title 45, chapter 2, article
3 3.1, Arizona Revised Statutes, as added by this act.

4 B. The sum of \$40,000,000 is appropriated from the monies allocated
5 to this state from the American rescue plan act of 2021 (P.L. 117-2) in
6 fiscal year 2024-2025 to the department of water resources to fund water
7 conservation, measures in a basin management area established pursuant to
8 title 45, chapter 2, article 3.1, Arizona Revised Statutes, as added by
9 this act.

10 C. A water user in a basin management area established pursuant to
11 title 45, chapter 2, article 3.1, Arizona Revised Statutes, as added by
12 this act, may apply for a grant of not more than fifty percent of the
13 costs of the water user's water conservation measure. The department of
14 water resources shall award monies allocated pursuant to this section
15 equitably to all classes of water users in a basin management area.

16 D. The appropriation made in subsection B of this section and the
17 amount appropriated for the statewide water resources planning line item
18 in fiscal year 2023-2024 pursuant to Laws 2023, chapter 133, section 97
19 are exempt from the provisions of section 35-190, Arizona Revised
20 Statutes, relating to lapsing of appropriations.