SENATE BILL 1221

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

Section 1. Title 45, chapter 2, Arizona Revised Statutes, is amended by adding articles 3.1 and 3.2, to read:

ARTICLE 3.1. BASIN MANAGEMENT AREAS

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

A. Except as provided in subsections H and I of this section, the designation of a basin management area in any location that is not included in an active management area and subject to the jurisdiction of this state may be initiated by petition to the director signed by at least fifteen percent of the registered voters who reside within the boundaries of the groundwater basin or subbasin specified in the petition as of the most recent report compiled by the county recorder in compliance with section 16-168, subsection H and who receive their drinking water from the groundwater basin or subbasin. A basin management area established pursuant to this article may include more than one groundwater subbasin but may not be smaller than a groundwater subbasin or include only a portion of a groundwater subbasin.

B. If a groundwater basin or subbasin is located in two or more counties, the number of registered voters required to sign the petition shall be at least fifteen percent of the registered voters who reside within the boundaries of the groundwater basin or subbasin, as of the most recent report compiled by the county recorder in compliance with section 16-168, subsection H and who receive their drinking water from the groundwater basin or subbasin.

C. The form of the petition shall be substantially similar to an initiative petition, and the applicant for the petition shall comply with section 19-111, subsections A, B and E, except that the duties required of the secretary of state shall be performed by the county recorders of the counties in which the registered voters of the groundwater basin or subbasin reside. A petition may not be accepted more than one hundred eighty days after the date of submission of the application for petition. For the purposes of this section, on request of a county recorder, the director shall transmit to the county recorder any factual data concerning the boundaries of the groundwater basin or subbasin that may aid the county recorder in determining which registered voters of the county are residents and, for the purposes of this section, are eligible voters of the groundwater basin or subbasin. The transmitted data shall include a map of the residences that receive drinking water from the groundwater basin or subbasin. If residency or the origin of a resident's drinking water is not verified, the ballot shall remain unopened and be destroyed.
D. AFTER RECEIVING AN APPLICATION FOR PETITION SIGNED BY ELIGIBLE VOTERS PURSUANT TO SUBSECTION A OF THIS SECTION, THE DIRECTOR SHALL DETERMINE WHETHER THE GROUNDWATER BASIN OR SUBBASIN SUBJECT TO THE PETITION MEETS BOTH OF THE FOLLOWING CONDITIONS:

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

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

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

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

(c) THE DIRECTOR SHALL MEASURE EACH INDEX WELL’S STATIC WATER LEVEL AT THE SAME TIME EACH YEAR.

E. IF THE DIRECTOR DETERMINES THAT THE GROUNDWATER BASIN OR SUBBASIN SUBJECT TO THE PETITION MEETS THE REQUIREMENTS PRESCRIBED IN SUBSECTION D OF THIS SECTION, THE DIRECTOR SHALL CONDUCT A COST BENEFIT ANALYSIS OF THE INCREASED WATER MANAGEMENT TO DETERMINE IF THE PROBABLE BENEFITS TO THE LOCAL ECONOMY RESULTING FROM THE PROPOSED WATER MANAGEMENT OUTWEIGHT THE COSTS. THE DIRECTOR MAY HIRE AN OUTSIDE CONTRACTOR TO CONDUCT THE COST BENEFIT ANALYSIS. IF THE DIRECTOR DETERMINES THAT THE PROBABLE BENEFITS OUTWEIGHT THE PROBABLE COSTS, THE DIRECTOR SHALL TRANSMIT THE PETITION TO THE COUNTY BOARD OF SUPERVISORS IN EACH COUNTY IN WHICH THE GROUNDWATER BASIN OR SUBBASIN SUBJECT TO THE PETITION IS LOCATED AND SHALL TRANSMIT A MAP OF THE GROUNDWATER BASIN OR SUBBASIN TO THE COUNTY RECORDER OF EACH SUCH COUNTY. THE MAP SHALL BE ON A SCALE ADEQUATE TO SHOW WITH SUBSTANTIAL ACCURACY WHERE THE BOUNDARIES OF THE GROUNDWATER BASIN OR SUBBASIN CROSS THE BOUNDARIES OF COUNTY VOTING PRECINCTS.

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

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

H. THE DIRECTOR MAY REFER EITHER OF THE FOLLOWING TO THE APPLICABLE COUNTY BOARD OF SUPERVISORS FOR DESIGNATION AS A BASIN MANAGEMENT AREA:

1. AN IRRIGATION NON-EXPANSION AREA THAT IS LOCATED OUTSIDE OF A BASIN OR SUBBASIN IN WHICH GROUNDWATER MAY BE TRANSPORTED TO AN ACTIVE MANAGEMENT AREA PURSUANT TO ARTICLE 8.1 OF THIS CHAPTER.
2. A basin in which the department has reported observed mean declines in groundwater levels greater than fifty feet during the period from 2000 through 2020.

I. If the director refers an irrigation non-expansion area or basin to a county board of supervisors pursuant to subsection H of this section, the irrigation non-expansion area or referred basin is not subject to the petition requirements prescribed in subsection A of this section but is subject to the meeting and vote procedures prescribed in subsections F and G of this section.

J. For the purposes of this section, "land subsidence":
   1. Means the settling or lowering of the surface of land that results from the withdrawal of groundwater.
   2. Does not include the settling of the alluvium of a river channel.

45-445.01. Meetings; boundaries; notice; establishment

A. If a petition that is filed pursuant to section 45-445 receives approval or the director declares all basins or subbasins in an irrigation non-expansion area as a basin management area pursuant to section 45-445.10, the director shall hold a series of public meetings as follows:

1. The director shall give reasonable notice of each meeting, including publishing the notice once each week for two consecutive weeks in a newspaper of general circulation in each county in which the proposed basin management area is located. The director and the counties in which the proposed basin management area is located shall post the notice on the department's and counties' websites. The notice shall contain the time and place of the meeting, the legal description and a map clearly identifying and describing all lands to be included in the proposed basin management area and any other information the director deems necessary.

2. The first and second meetings shall be held at a location in the county in which the major portion of the proposed basin management area is located not more than sixty days after the first publication of the notice of the meeting. At the meeting, the director shall present any data on groundwater levels for the proposed basin management area from the department and shall describe the effects of the proposed formation of the basin management area, including the results of the cost benefit analysis conducted pursuant to section 45-445, the cost of applications that users may submit to the department and the effects of water conservation. Any person may appear at the meeting, either in person or by representative, and may submit oral or documentary information regarding the proposed action or any secondary modeling challenging the modeling completed by the department pursuant to section 45-445, subsection D or E.

3. The third meeting shall be a meeting of a joint legislative committee consisting of all members of the house of representatives natural resources, energy and water committee and the senate natural resources, energy and water committee, or their successor committees. The

B. WITHIN FIFTEEN DAYS AFTER THE JOINT LEGISLATIVE MEETING PRESCRIBED IN SUBSECTION A, PARAGRAPH 3 OF THIS SECTION ADJOURNS, THE DIRECTOR SHALL MAKE A DETERMINATION AS TO WHETHER THE PROCEDURES OUTLINED IN SECTION 45-445 AND THIS SECTION HAVE BEEN COMPLIED WITH.

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

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

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

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

1. FOR MUNICIPAL, INDUSTRIAL OR RESIDENTIAL USERS, ON APPLICATION THE DIRECTOR SHALL GRANT THE USER A CERTIFICATE OF GROUNDWATER RIGHTS THAT IS CONSISTENT WITH THE MAXIMUM AMOUNT OF GROUNDWATER WITHDRAWN AND USED BY THE USER IN ACRE FEET IN ANY ONE YEAR IN THE FIVE PRECEDING YEARS BEFORE THE DATE OF FORMATION OF THE BASIN MANAGEMENT AREA.

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

(a) THE AVERAGE USE OF THE AGRICULTURAL GROUNDWATER USER IN ACRE FEET OVER THE PRECEDING TEN YEARS BEFORE THE DATE OF FORMATION OF THE BASIN MANAGEMENT AREA.
3. NOTWITHSTANDING PARAGRAPH 2 OF THIS SUBSECTION, FOR AGRICULTURAL USERS THAT HAVE WITHDRAWN AND USED GROUNDWATER FOR FEWER THAN TEN YEARS BEFORE THE DATE OF FORMATION OF A BASIN MANAGEMENT AREA, THE DIRECTOR SHALL GRANT THE USER A CERTIFICATE OF GROUNDWATER RIGHTS THAT IS CONSISTENT WITH THE HIGHER OF EITHER:

(a) THE AVERAGE GROUNDWATER USE OF THE AGRICULTURAL GROUNDWATER USER IN ACRE FEET OVER THE PRECEDING YEARS THAT GROUNDWATER WAS USED IN THE TEN YEARS BEFORE THE DATE OF FORMATION OF THE BASIN MANAGEMENT AREA.

(b) THE MEDIAN GROUNDWATER USE OF THE AGRICULTURAL GROUNDWATER USER IN ACRE FEET OVER THE PRECEDING YEARS THAT GROUNDWATER WAS USED IN THE TEN YEARS BEFORE THE DATE OF FORMATION OF THE BASIN MANAGEMENT AREA.


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

D. BEGINNING AFTER A BASIN MANAGEMENT AREA PETITION IS APPROVED, NEW GROUNDWATER PUMPING MAY NOT OCCUR IN THE BASIN MANAGEMENT AREA, EXCEPT THAT A USER WITH A CERTIFICATE OF GROUNDWATER RIGHTS MAY RETIRE OR DIMINISH THE GROUNDWATER USER'S WITHDRAWAL FROM AN EXISTING WELL AND WITHDRAW AN EQUAL AMOUNT OF GROUNDWATER FROM A REPLACEMENT WELL OR EXISTING WELL FOR THE SAME USE CONSISTENT WITH THE GROUNDWATER USER'S CERTIFICATED GROUNDWATER RIGHT ON THE SAME PROPERTY OR MAY WITHDRAW INTENTIONALLY RECHARGED WATER OR TRANSFER A CERTIFICATE OF GROUNDWATER RIGHTS AND THE ASSOCIATED GROUNDWATER AS PRESCRIBED BY THIS ARTICLE IF THERE REMAINS A NET BENEFIT OF TEN PERCENT OR MORE TO THE AQUIFER.

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

F. A GROUNDWATER USER SHALL ANNUALLY REPORT TO THE DEPARTMENT AN ESTIMATE OF GROUNDWATER USE BASED ON PUMPING CAPACITY AND THE POWER USAGE OF THE USER'S GROUNDWATER PUMPING OR OTHER SIMILARLY RELIABLE AND ACCESSIBLE METHODS. FOR THE PURPOSES OF THIS SUBSECTION, A USER MAY VOLUNTARILY ACQUIRE AND REPORT METERING DATA.
G. AN APPLICATION FOR A CERTIFICATE OF GROUNDWATER RIGHTS SHALL INCLUDE ALL OF THE FOLLOWING:

1. THE APPLICANT'S NAME AND MAILING ADDRESS.
2. THE NAME OF THE BASIN MANAGEMENT AREA SUBJECT TO THE APPLICATION FROM WHICH THE APPLICANT HAS WITHDRAWN GROUNDWATER.
3. A SWORN STATEMENT THAT ALL INFORMATION CONTAINED IN THE APPLICATION IS TRUE, COMPLETE AND CORRECT ACCORDING TO THE BEST BELIEF AND KNOWLEDGE OF THE APPLICANT.
4. IF THE APPLICATION IS FOR MUNICIPAL OR INDUSTRIAL GROUNDWATER USE:
   (a) THE MAXIMUM AMOUNT OF GROUNDWATER THE APPLICANT WITHDREW AND USED IN ANY ONE YEAR DURING THE FIVE YEARS PRECEDING THE DATE OF FORMATION OF THE BASIN MANAGEMENT AREA.
   (b) THE APPLICANT'S USE OR TYPE OF USE OF GROUNDWATER WITHDRAWN BY THE APPLICANT.
   (c) THE LOCATION OF EACH WELL FROM WHICH THE APPLICANT WITHDRAWS GROUNDWATER OR HAS WITHDRAWN GROUNDWATER.
5. IF THE APPLICATION IS FOR AGRICULTURAL GROUNDWATER USE:
   (a) A LEGAL DESCRIPTION AND A MAP OF ALL LAND OWNED BY THE APPLICANT FOR WHICH THE APPLICANT CLAIMS THE RIGHT TO WITHDRAW AND USE GROUNDWATER.
   (b) THE AMOUNT OF WATER THE APPLICANT HAS USED FOR AGRICULTURAL PURPOSES ON THE LAND EACH YEAR DURING THE TEN YEARS PRECEDING THE DATE OF FORMATION OF THE BASIN MANAGEMENT AREA.

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

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

A. A PERSON WHO IS ENTITLED TO USE GROUNDWATER PURSUANT TO A CERTIFICATE OF GROUNDWATER RIGHT MAY:
1. USE GROUNDWATER IN EXCESS OF THE AMOUNT ALLOWED BY THE RIGHT IN AN AMOUNT DETERMINED PURSUANT TO SUBSECTION E OF THIS SECTION.
2. USE LESS THAN THE AMOUNT ALLOWED BY THE RIGHT IN ONE ACCOUNTING PERIOD AND USE THE REMAINING AMOUNT ALLOWED BY THE RIGHT IN A SUCCEEDING ACCOUNTING PERIOD OR PERIODS.
B. THE DIRECTOR SHALL ESTABLISH RULES FOR THE MAINTENANCE OF A
FLEXIBILITY ACCOUNT FOR EACH CERTIFICATE OF GROUNDWATER RIGHT IN A BASIN
MANAGEMENT AREA.

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

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

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

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

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

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

E. THE MAXIMUM EXCESS AMOUNT OF GROUNDWATER THAT A PERSON MAY USE
PURSUANT TO THIS SECTION SHALL BE EQUAL TO FIFTY PERCENT OF THE ANNUAL
ALLOCATION OF WATER GRANTED PURSUANT TO A CERTIFICATE OF GROUNDWATER
RIGHT. AN OWNER OF A CERTIFICATE OF GROUNDWATER RIGHT AND THE PERSON
USING GROUNDWATER PURSUANT TO THE RIGHT ARE DEEMED TO VIOLATE THIS SECTION
IF THE FLEXIBILITY ACCOUNT FOR THE RIGHT IS IN ARREARS AT ANY TIME IN
EXCESS OF THIS AMOUNT. GROUNDWATER EQUAL TO THE CREDIT BALANCE IN THE
FLEXIBILITY ACCOUNT MAY BE USED AT ANY TIME.
F. IF A CERTIFICATE OF GROUNDWATER RIGHT IS CONVEYED IN WHOLE OR IN PART, EACH ACRE-FOOT CONVEYED SHALL CARRY WITH IT A PROPORTIONAL SHARE OF ANY DEBITS OR CREDITS IN THE FLEXIBILITY ACCOUNT FOR THE RIGHT.

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


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


45-445.04. Use of municipal and industrial groundwater rights

THE OWNER OF A MUNICIPAL AND INDUSTRIAL CERTIFICATE OF GROUNDWATER RIGHTS MAY:

1. USE GROUNDWATER WITHDRAWN PURSUANT TO THE CERTIFICATE OF GROUNDWATER RIGHTS FOR ANY NONAGRICULTURAL USE AT ANY LOCATION IN THE BASIN MANAGEMENT AREA SUBJECT TO THE PROVISIONS GOVERNING TRANSPORTATION OF GROUNDWATER PRESCRIBED IN ARTICLE 8 OF THIS CHAPTER.

2. WITHDRAW GROUNDWATER PURSUANT TO THE CERTIFICATE OF GROUNDWATER RIGHTS ONLY FROM THOSE WELLS OUTLINED ON THE USER'S CERTIFICATE OF GROUNDWATER RIGHTS.
3. Request the director to issue a revised certificate of groundwater rights to reflect new or additional points of withdrawal or new or additional types of nonagricultural use.

4. Lease all or part of the municipal and industrial groundwater right. If a groundwater right is leased, the lessee may use groundwater withdrawn pursuant to the groundwater right as prescribed by this section.

45-445.05. Use of agricultural groundwater right

A. The owner of an agricultural certificate of groundwater rights pursuant to section 45-445.02 may:

1. Use groundwater withdrawn pursuant to the certificate of groundwater rights for any agricultural use on any land described in the certificate of groundwater rights.

2. Request the director to issue a revised certificate of groundwater rights to reflect new or additional acres of land within the basin management area on which the owner wishes to use groundwater withdrawn pursuant to the certificate of groundwater rights for agricultural purposes.

B. The right to use groundwater pursuant to this section is appurtenant to the acres of land described in the agricultural certificate of groundwater rights. An agricultural groundwater right is owned by the owner of the land to which the groundwater right is appurtenant and may be leased for agricultural use with the land to which it is appurtenant.

C. The owner or lessee of an agricultural certificate of groundwater rights may withdraw or receive groundwater from any location in the basin management area subject to the provisions governing transportation of groundwater prescribed in article 8 of this chapter.

45-445.06. Right to convert agricultural groundwater rights for municipal and industrial use

A. The owner of an agricultural certificate of groundwater rights may convert all or part of the groundwater right to a municipal and industrial use.

B. A municipal or industrial groundwater user may withdraw and use a converted agricultural groundwater right annually for municipal and industrial use as follows:

1. If the municipal and industrial use is on land described in the agricultural certificate of groundwater rights, ninety percent of the amount of the agricultural groundwater right allocation.

2. If the municipal and industrial use is on land other than land described in the agricultural certificate of groundwater rights, eighty percent of the amount of the agricultural groundwater right allocation.

C. A person who proposes to convert an agricultural groundwater right to a municipal and industrial use shall notify the director, on a form prescribed and furnished by the director, of the conversion and the location of each well from which groundwater will be withdrawn for a
MUNICIPAL AND INDUSTRIAL USE AND THE TYPES OF USE FOR WHICH GROUNDWATER WILL BE WITHDRAWN.

D. AFTER RECEIVING NOTICE OF A CONVERSION OF AN AGRICULTURAL GROUNDWATER RIGHT TO A MUNICIPAL AND INDUSTRIAL USE, THE DIRECTOR SHALL ISSUE TO THE OWNER A REVISED AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS FOR THE REMAINING AGRICULTURAL USE, IF ANY, AND A NEW MUNICIPAL AND INDUSTRIAL CERTIFICATE OF GROUNDWATER RIGHTS FOR THE CONVERTED MUNICIPAL AND INDUSTRIAL USE.

45-445.07. Conveyance of certificate of groundwater rights

A. THE OWNER OF A MUNICIPAL AND INDUSTRIAL CERTIFICATE OF GROUNDWATER RIGHTS MAY SELL OR CONVEY ALL OR PART OF THE GROUNDWATER RIGHT FOR ANY NONAGRICULTURAL USE IN THE SAME GROUNDWATER BASIN OR SUBBASIN.


1. THE AMOUNT IN ACRE-FEET RETAINED BY THE CONVEYOR, IF ANY.
2. THE AMOUNT IN ACRE-FEET TRANSFERRED TO THE CONVEYEE.
3. THE TYPES OF USE FOR WHICH GROUNDWATER WILL BE WITHDRAWN BY THE CONVEYOR, IF ANY.
4. THE TYPES OF USE FOR WHICH GROUNDWATER WILL BE WITHDRAWN BY THE CONVEYEE.
5. THE LOCATION OF EACH WELL FROM WHICH GROUNDWATER WILL BE WITHDRAWN BY THE CONVEYOR, IF ANY.
6. THE LOCATION OF EACH WELL FROM WHICH GROUNDWATER WILL BE WITHDRAWN BY THE CONVEYEE.
7. OTHER INFORMATION AS THE DIRECTOR MAY REASONABLY REQUIRE.


D. IF THE OWNER OF AN AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS CONVEYS LAND DESCRIBED IN THE GROUNDWATER USER'S CERTIFICATE, EACH ACRE CONVEYED SHALL CARRY WITH IT A PROPORTIONAL SHARE OF THE ANNUAL ALLOCATION OF GROUNDWATER GRANTED PURSUANT TO A CERTIFICATE.

1. A LEGAL DESCRIPTION AND A MAP OF THE LAND RETAINED BY THE
SELLER, IF ANY.

2. A LEGAL DESCRIPTION AND A MAP OF THE LAND CONVEYED TO THE
CONVEYEE.

3. OTHER INFORMATION AS THE DIRECTOR MAY REASONABLY REQUIRE.

F. AFTER RECEIVING NOTICE OF A SALE OR CONVEYANCE OF AN
AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHT, THE DIRECTOR SHALL ISSUE TO
THE CONVEYOR A REVISED CERTIFICATE FOR THE PORTION OF THE GROUNDWATER
RIGHT RETAINED BY THE CONVEYOR, IF ANY, AND ISSUE TO THE CONVEYEE A NEW
AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS FOR THE PORTION OF THE
GROUNDWATER RIGHT CONVEYED.

G. THE OWNER OF AN AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS
MAY SELL OR CONVEY ALL OR PART OF THE RIGHT FOR AGRICULTURAL USE ON OTHER
LAND IN THE SAME GROUNDWATER BASIN OR SUBBASIN.

H. WITHIN THIRTY DAYS AFTER A CONVEYANCE AS PRESCRIBED IN
SUBSECTION G OF THIS SECTION, THE CONVEYOR OF AN AGRICULTURAL CERTIFICATE
OF GROUNDWATER RIGHTS AND THE CONVEYEE SHALL NOTIFY THE DIRECTOR OF THE
CONVEYANCE ON A FORM PRESCRIBED AND FURNISHED BY THE DIRECTOR. THE NOTICE
PROVIDED BY THE CONVEYOR AND THE CONVEEYEE SHALL INCLUDE THE FOLLOWING:

1. THE AMOUNT IN ACRE-FEET RETAINED BY THE CONVEYOR, IF ANY.

2. THE AMOUNT IN ACRE-FEET TRANSFERRED TO THE CONVEEYEE.

3. A LEGAL DESCRIPTION AND A MAP OF THE LAND ON WHICH THE CONVEYOR
DESIRE TO USE GROUNDWATER FOR AN AGRICULTURAL PURPOSE AND THE PORTION OF
THE AGRICULTURAL GROUNDWATER RIGHT RETAINED.

4. A LEGAL DESCRIPTION AND A MAP OF THE LAND ON WHICH THE CONVEEYEE
DESIRE TO USE GROUNDWATER FOR AGRICULTURAL USE PURSUANT TO THE
AGRICULTURAL GROUNDWATER RIGHT CONVEYED.

5. OTHER INFORMATION AS THE DIRECTOR MAY REASONABLY REQUIRE.

I. AFTER RECEIVING NOTICE OF A SALE OR CONVEYANCE OF AN
AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS FOR USE ON OTHER
AGRICULTURAL LAND, THE DIRECTOR SHALL ISSUE TO THE CONVEYOR A REVISED
CERTIFICATE OF GROUNDWATER RIGHTS FOR THE PORTION OF THE RIGHT RETAINED BY
THE CONVEYOR, IF ANY, AND ISSUE TO THE CONVEEYEE A NEW AGRICULTURAL
CERTIFICATE OF GROUNDWATER RIGHTS FOR THE PORTION OF THE RIGHT CONVEYED.

45-445.08. Retirement; certificate of groundwater rights

A. THE OWNER OF A CERTIFICATE OF GROUNDWATER RIGHTS MAY RETIRE ALL
OR PART OF THE GROUNDWATER RIGHTS.

B. A PERSON WHO PROPOSES TO RETIRE ALL OR PART OF A CERTIFICATE OF
GROUNDWATER RIGHTS SHALL NOTIFY THE DIRECTOR OF THE RETIREMENT ON A FORM
PRESCRIBED AND FURNISHED BY THE DIRECTOR. THE NOTICE PROVIDED BY THE
PERSON PROPOSING TO RETIRE ALL OR PART OF A CERTIFICATE OF GROUNDWATER
RIGHTS SHALL INCLUDE THE FOLLOWING:

1. THE AMOUNT IN ACRE-FEET OF THE GROUNDWATER RIGHT TO BE RETIRED.
2. IF THE GROUNDWATER RIGHT TO BE RETIRED IS A MUNICIPAL AND INDUSTRIAL GROUNDWATER RIGHT:
   (a) THE TYPE OR TYPES OF USE FOR WHICH GROUNDWATER WILL BE WITHDRAWN UNDER THE PORTION OF THE GROUNDWATER RIGHT NOT RETIRED, IF ANY.
   (b) THE LOCATION OF EACH WELL FROM WHICH GROUNDWATER WILL BE WITHDRAWN UNDER THE PORTION OF THE GROUNDWATER RIGHT NOT RETIRED, IF ANY.
   (c) OTHER INFORMATION AS THE DIRECTOR MAY REASONABLY REQUIRE.

3. IF THE GROUNDWATER RIGHT TO BE RETIRED IS AN AGRICULTURAL GROUNDWATER RIGHT:
   (a) A LEGAL DESCRIPTION AND A MAP OF THE LAND ON WHICH THE PERSON PROPOSING TO RETIRE THE GROUNDWATER RIGHT DESIRES TO USE FOR AGRICULTURAL USE THE PORTION OF THE GROUNDWATER RIGHT NOT RETIRED, IF ANY.
   (b) OTHER INFORMATION AS THE DIRECTOR MAY REQUIRE.

C. AFTER RECEIVING NOTICE OF RETIREMENT OF ALL OR PART OF A CERTIFICATE OF GROUNDWATER RIGHTS, THE DIRECTOR SHALL ISSUE TO THE PERSON WHO RETIRES THE GROUNDWATER RIGHT A REVISED CERTIFICATE OF GROUNDWATER RIGHTS FOR THE PORTION OF THE GROUNDWATER RIGHT NOT RETIRED, IF ANY.

45-445.09. Basin management; active management area; prohibition
   THE DIRECTOR OR THE VOTERS OF A BASIN MANAGEMENT AREA MAY NOT DESIGNATE A BASIN MANAGEMENT AREA AS AN ACTIVE MANAGEMENT AREA OR IRRIGATION NON-EXPANSION AREA.

45-445.10. Irrigation non-expansion area to basin management area
   IF A BASIN MANAGEMENT AREA IS ESTABLISHED PURSUANT TO THIS ARTICLE IN AN AREA THAT WAS PREVIOUSLY DESIGNATED AS AN IRRIGATION NON-EXPANSION AREA, THE DIRECTOR SHALL DECLARE ALL BASINS OR SUBBASINS IN THE IRRIGATION NON-EXPANSION AREA AS A BASIN MANAGEMENT AREA AND THE IRRIGATION NON-EXPANSION AREA AND ANY REGULATIONS ADOPTED PURSUANT TO THE DESIGNATION AS AN IRRIGATION NON-EXPANSION TERMINATE.

45-445.11. Preemption; groundwater transportation
   THIS ARTICLE DOES NOT PREEMPT THE TRANSPORTATION OF GROUNDWATER PURSUANT TO ARTICLES 8 AND 8.1 OF THIS CHAPTER.

ARTICLE 3.2. ACTIVE BASIN MANAGEMENT
45-446. Active basin management area; initiation procedures; election; map
   A. THE DESIGNATION OF AN ACTIVE BASIN MANAGEMENT AREA IN ANY LOCATION THAT IS DESIGNATED A BASIN MANAGEMENT AREA PURSUANT TO ARTICLE 3.1 OF THIS CHAPTER MAY BE INITIATED BY A UNANIMOUS VOTE OF ALL BOARDS OF SUPERVISORS WITH GEOGRAPHIC BOUNDARIES WITHIN THE GROUNDWATER BASIN OR SUBBASIN. IF ALL SUPERVISORS VOTE TO DESIGNATE AN ACTIVE BASIN MANAGEMENT AREA, THE COUNTY BOARD OF SUPERVISORS SHALL CALL FOR AN ELECTION ON THE QUESTION OF DESIGNATING AN ACTIVE BASIN MANAGEMENT AREA WITH BOUNDARIES THAT ARE COTERMINOUS WITH THE BOUNDARIES OF THE GROUNDWATER BASIN OR SUBBASIN DESIGNATED AS A BASIN MANAGEMENT AREA AND FOR THE ELECTION OF
THREE ACTIVE BASIN MANAGEMENT COUNCIL MEMBERS. IF THE PROPOSED ACTIVE BASIN MANAGEMENT AREA IS LOCATED IN MORE THAN ONE COUNTY, THE RESPECTIVE COUNTIES SHALL cooperate to administer the election. Notwithstanding any other law, the election shall be conducted as prescribed in Title 16, Chapter 4, Article 8.1, except that the election shall include only registered voters who reside inside the boundaries of the proposed active basin management area and who receive their drinking water from the groundwater basin or subbasin as eligible voters.

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

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


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

A. AN ACTIVE BASIN MANAGEMENT COUNCIL SHALL BE ESTABLISHED IN EACH ACTIVE BASIN MANAGEMENT AREA CONSISTING OF THE FOLLOWING FIVE MEMBERS:

1. THREE MEMBERS WHO RESIDE WITHIN THE BOUNDARIES OF THE ACTIVE BASIN MANAGEMENT AREA, WHO RECEIVE THEIR DRINKING WATER FROM THE GROUNDWATER BASIN OR SUBBASIN AND WHO ARE ELECTED PURSUANT TO SECTION 45-446.

2. TWO MEMBERS WHO ARE RESIDENTS OF THIS STATE AND WHO ARE APPOINTED BY THE IRRIGATION DISTRICTS WHOSE BOUNDARIES OVERLAP WITH THE ACTIVE BASIN MANAGEMENT AREA. IF NO IRRIGATION DISTRICTS OVERLAP WITH THE
BOUNDARIES OF THE ACTIVE BASIN MANAGEMENT AREA, THE IRRIGATION DISTRICT
WHOSE BOUNDARIES ARE CLOSEST TO THOSE OF THE ACTIVE BASIN MANAGEMENT AREA
SHALL APPOINT THESE COUNCIL MEMBERS.

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

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

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

E. THE ACTIVE BASIN MANAGEMENT COUNCIL SHALL:
1. SELECT A CHAIRPERSON FROM THE COUNCIL'S MEMBERSHIP.
2. MEET AS OFTEN AS THE CHAIRPERSON DEEMS NECESSARY.
3. HOLD AT LEAST TWO PUBLIC MEETINGS IN THE BASIN OR SUBBASIN AND
ALLOW PUBLIC COMMENT BEFORE ADOPTING AN ACTIVE BASIN MANAGEMENT AREA
MANAGEMENT PLAN.
4. SUBMIT A PROPOSED MANAGEMENT PLAN TO THE CHAIRPERSONS OF THE
HOUSE OF REPRESENTATIVES AND SENATE NATURAL RESOURCES, ENERGY AND WATER
COMMITTEES, OR THEIR SUCCESSOR COMMITTEES, BEFORE ADOPTING A MANAGEMENT
PLAN.
5. ON REQUEST OF THE CHAIRPERSON OF THE HOUSE OF REPRESENTATIVES OR
SENATE NATURAL RESOURCES AND ENERGY COMMITTEE, OR ITS SUCCESSOR COMMITTEE,
ATTEND A JOINT LEGISLATIVE HEARING TO EVALUATE A PROPOSED MANAGEMENT PLAN.
6. IN CONJUNCTION WITH THE DEPARTMENT, APPLY FOR AND DISTRIBUTE
GRANTS FOR WATER CONSERVATION, WATER AUGMENTATION OR WATER SYSTEM UPGRADES
WITHIN THE ACTIVE BASIN MANAGEMENT AREA. MONIES AWARDED PURSUANT TO THIS
PARAGRAPH SHALL BE DISTRIBUTED EQUITABLY ACROSS ALL SECTORS.
7. SUBMIT A PLAN FOR WATER MANAGEMENT TO THE DIRECTOR. THE PLAN
SHALL BE CONSISTENT WITH THE MANAGEMENT GOALS OF AN ACTIVE BASIN
MANAGEMENT AREA AND MUST BE APPROVED BY ALL MEMBERS OF THE COUNCIL. THE
PLAN MAY NOT REQUIRE MORE THAN A TWO PERCENT ANNUAL REDUCTION IN A WATER
USER'S ORIGINAL ALLOCATION GRANTED PURSUANT TO A CERTIFICATED GROUNDWATER
RIGHT OR PROHIBIT A GROUNDWATER USER FROM WITHDRAWING INTENTIONALLY
CREATED GROUNDWATER RECHARGE, INCLUDING EFFLUENT WITH A TEN PERCENT NET
BENEFIT TO THE AQUIFER. THE PLAN SHALL REQUIRE ANY ANNUAL REDUCTION IN
WATER USE TO BE EQUAL IN PERCENTAGE FOR ALL USERS WITH A CERTIFICATED
GROUNDWATER RIGHT. THE PLAN MAY NOT REQUIRE A WATER USER TO REDUCE ANNUAL
WATER USE BY AN AMOUNT GREATER THAN TEN PERCENT OF THE ANNUAL ALLOCATION
OF WATER THAT THE USER IS ENTITLED TO PURSUANT TO A CERTIFICATE OF
GROUNDWATER RIGHTS ISSUED PURSUANT TO SECTION 45-445.02 AT ANY TIME DURING
THE TERM OF AN ACTIVE BASIN MANAGEMENT AREA, INCLUDING DURING ANY
SUBSEQUENT TERM OF THE ACTIVE MANAGEMENT AREA AND MAY NOT REQUIRE ANY
WATER USER TO ACHIEVE TOTAL WATER USE REDUCTIONS IN INCREMENTS GREATER THAN TWO PERCENT PER YEAR.

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

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

45-446.02. Active basin management areas; goals

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

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

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

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

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

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

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

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

8. TO INCREASE THE TOTAL AMOUNT OF WATER REUSE IN THE GROUNDWATER BASIN OR SUBBASE EACH YEAR, FROM A SET LEVEL IN ACRE-FEET PER YEAR TO A HIGHER SET LEVEL IN ACRE-FEET PER YEAR, BY A SET YEAR AS DETERMINED BY THE COUNCIL.
45-446.03. Active basin management area; right to water; annual report; termination and continuation

A. The designation of an active basin management area may not infringe on a water user’s certificated water rights granted pursuant to section 45-445.02, except that an active basin management council may require not more than a two percent annual reduction in water use as part of an active basin management area management plan. A water user in an active basin management area may transfer the user’s water rights pursuant to section 45-445.02, subsection D, paragraph 4 or use groundwater pursuant to section 45-445.02, subsection D.

B. The department:

1. In conjunction with an active basin management council, shall annually review the status of groundwater in the active basin management area and shall estimate the amount of any change in groundwater levels in the area.

2. Shall submit an annual report, on or before February 1 of each year, of the department’s findings to the active basin management council.

3. May not require a groundwater user to meter any wells located in an active basin management area.

4. May not require a groundwater user to report the user’s groundwater use beyond the requirements prescribed in subsection D of this section.

C. An active basin management council established pursuant to this article may not:

1. Require a groundwater user to meter any wells located in an active basin management area.

2. Require a groundwater user to report the user’s groundwater use beyond the requirements prescribed in subsection D of this section.

D. A groundwater user shall annually report to the active basin management council an estimate of groundwater use based on pumping capacity and the power usage of the user’s groundwater pumping or other similarly reliable and accessible methods. For the purposes of this paragraph, a user may voluntarily acquire and report metering data.

E. For the purposes of this article, any data or estimate a person submits regarding a person’s groundwater use is not a public record under title 39, chapter 1 and may not be disclosed unless the groundwater user consents to disclosure.

F. An active basin management area and active basin management council terminate ten years after the date on which the active basin management area was established unless continued pursuant to this section. Except as provided in subsection J of this section, if the director determines either that the active basin management area no longer meets the conditions prescribed in section 45-445, subsection D pursuant to subsection G of this section or, pursuant to the cost benefit analysis, that the cost outweighs the projected benefits, the active basin
MANAGEMENT AREA SHALL IMMEDIATELY TERMINATE. A PARTY MAY SEEK JUDICIAL REVIEW OF THE DIRECTOR’S DETERMINATIONS PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

G. TWENTY-FOUR MONTHS BEFORE THE EXPECTED TERMINATION OF AN ACTIVE BASIN MANAGEMENT AREA, THE DIRECTOR SHALL:
1. DETERMINE IF THE ACTIVE BASIN MANAGEMENT AREA CONTINUES TO MEET THE CONDITIONS PRESCRIBED IN SECTION 45-445, SUBSECTION D.
2. DETERMINE IF THE PROBABLE BENEFITS TO THE LOCAL ECONOMY RESULTING FROM THE PROPOSED WATER MANAGEMENT AUTHORIZED BY THIS ARTICLE OUTWEIGH THE COSTS. FOR THE PURPOSES OF THIS PARAGRAPH, THE DIRECTOR MAY HIRE AN OUTSIDE CONTRACTOR TO CONDUCT THE COST-BENEFIT ANALYSIS.

H. AN ELECTION TO CONTINUE AN ACTIVE BASIN MANAGEMENT AREA SHALL BE CONDUCTED AS PRESCRIBED IN TITLE 16, CHAPTER 4, ARTICLE 8.1, EXCEPT THAT THE ELECTION SHALL INCLUDE ONLY REGISTERED VOTERS WHO RESIDE INSIDE THE BOUNDARIES OF THE PROPOSED ACTIVE BASIN MANAGEMENT AREA AND WHO RECEIVE THEIR DRINKING WATER FROM THE BASIN OR SUBBASIN AS ELIGIBLE VOTERS. CANDIDATES FOR AN ACTIVE BASIN MANAGEMENT COUNCIL SHALL COMPLY WITH SECTION 45-446.

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

J. AN ACTIVE BASIN MANAGEMENT AREA THAT WAS ORIGINALLY DESIGNATED AS A BASIN MANAGEMENT AREA PERSUANT TO SECTION 45-445, SUBSECTION H OR I MAY NOT TERMINATE ON THE GROUNDS THAT THE BASIN NO LONGER MEETS THE CONDITIONS PRESCRIBED BY SECTION 45-445, SUBSECTION D.
45-446.04. *Active basin management area; active management area; prohibition*

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

45-446.05. *Preemption; groundwater transportation*

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

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

49-1270. *Definitions*

In this article, unless the context otherwise requires:

1. "Eligible entity" means any of the following:
   (a) A water provider that distributes or sells water outside of the boundaries of an initial active management area in which part of the central Arizona project aqueduct is located.
   (b) Any city, town, county, district, commission, authority or other public entity that is organized and that exists under the statutory law of this state or under a voter-approved charter or initiative of this state that is located outside of the boundaries of an initial active management area in which part of the central Arizona project aqueduct is located.
   (c) AN ACTIVE BASIN MANAGEMENT COUNCIL ESTABLISHED PURSUANT TO TITLE 45, CHAPTER 2, ARTICLE 3.2.

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

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

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

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

A. The department of water resources shall use monies appropriated in the statewide water resources planning line item pursuant to Laws 2023, chapter 133, section 97 only to fund water conservation measures in a basin management area established pursuant to title 45, chapter 2, article 3.1, Arizona Revised Statutes, as added by this act.

B. The sum of $40,000,000 is appropriated from the monies allocated to this state from the American rescue plan act of 2021 (P.L. 117-2) in fiscal year 2024-2025 to the department of water resources to fund water conservation, measures in a basin management area established pursuant to title 45, chapter 2, article 3.1, Arizona Revised Statutes, as added by this act.
C. A water user in a basin management area established pursuant to title 45, chapter 2, article 3.1, Arizona Revised Statutes, as added by this act, may apply for a grant of not more than fifty percent of the costs of the water user's water conservation measure. The department of water resources shall award monies allocated pursuant to this section equitably to all classes of water users in a basin management area.

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