

Senate Engrossed House Bill

irrigation non-expansion area; substitution; acres

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE BILL 2060

AN ACT

AMENDING SECTION 45-437, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 2, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-437.04; RELATING TO THE GROUNDWATER CODE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-437, Arizona Revised Statutes, is amended to
3 read:

4 45-437. Irrigated acreage; water measuring device; annual
5 report of groundwater pumping; penalty;
6 transportation; exemption

7 A. In an initial irrigation non-expansion area established pursuant
8 to section 45-431, except as provided in subsection E of this section AND
9 SECTION 45-437.04, only acres of land ~~which~~ THAT were legally irrigated at
10 any time between January 1, 1975 and January 1, 1980 may be irrigated with
11 groundwater, effluent, diffused water on the surface or surface water,
12 except as provided in sections 45-172, 45-437.01, 45-437.02 and 45-437.03,
13 and except that this does not prohibit irrigation with surface water used
14 pursuant to decreed or appropriative rights established before June 12,
15 1980. Land ~~which~~ THAT was not irrigated at any time from January 1, 1975
16 through January 1, 1980 is deemed to have been in irrigation if the
17 director finds that substantial capital investment has been made in the
18 twelve months before June 12, 1980 for the improvement of the land and
19 on-site irrigation distribution facilities, including the drilling of
20 wells, for an irrigation use. This subsection does not allow irrigation
21 of land ~~which~~ THAT could not have been legally irrigated under prior
22 statutory law.

23 B. In a subsequent irrigation non-expansion area established
24 pursuant to section 45-432, except as provided in subsection E of this
25 section, only acres of land ~~which~~ THAT were irrigated WITH GROUNDWATER
26 FROM A NON-EXEMPT WELL at any time during the five years preceding the
27 date of the notice of the initiation of designation procedures may be
28 irrigated with groundwater, ~~effluent, diffused water on the surface or~~
29 ~~surface water, except as provided in sections 45-172, 45-437.01, 45-437.02~~
30 ~~and 45-437.03, and except that this does not prohibit irrigation with~~
31 ~~surface water used pursuant to decreed or appropriative rights established~~
32 ~~before the date of the notice.~~ FROM A NON-EXEMPT WELL. Land ~~which~~ THAT
33 was not irrigated at any time during this ~~five year~~ FIVE-YEAR period is
34 deemed to have been in irrigation if the director finds that substantial
35 capital investment has been made for the subjugation of such land for an
36 irrigation use including on-site irrigation distribution facilities and a
37 well or wells the drilling and construction of which were substantially
38 commenced before the date of the notice of the initiation of designation
39 procedures.

40 C. Except as provided in subsection F of this section, in an
41 irrigation non-expansion area:

42 1. Each person withdrawing groundwater from a non-exempt well for
43 an irrigation use and each person withdrawing more than ten acre-feet of
44 groundwater per year from a non-exempt well for a non-irrigation use shall

1 use a water measuring device approved by the director. Each person
2 withdrawing groundwater from a non-exempt well shall file a report on a
3 calendar year basis with the director on a form provided by the director
4 ~~no~~ NOT later than March 31 of the following year. In filing a report,
5 each person withdrawing ten or fewer acre-feet of groundwater per year
6 from a non-exempt well for a non-irrigation use shall estimate the
7 quantity of groundwater withdrawn.

8 2. Transportations of groundwater are subject to the provisions of
9 articles 8 and 8.1 of this chapter.

10 D. If a person, who is required under subsection C, paragraph 1 of
11 this section to file an annual report for calendar year 1986 or any
12 subsequent calendar year, fails to file a report for the calendar year in
13 question on or before March 31 of the following year, the director may
14 assess and collect a penalty of ~~twenty-five dollars~~ \$25 for each month or
15 portion of a month that the annual report is delinquent. The total
16 penalty assessed under this subsection shall not exceed ~~one hundred fifty~~
17 ~~dollars~~ \$150. The director shall deposit, pursuant to sections 35-146 and
18 35-147, all penalties collected under this subsection in the state general
19 fund.

20 E. In an irrigation non-expansion area, a correctional facility
21 under the jurisdiction of the state department of corrections may irrigate
22 with groundwater, effluent, diffused water on the surface or surface water
23 up to a total of ten acres of land that otherwise may not be irrigated
24 pursuant to subsection A or B of this section if the irrigation is for the
25 purpose of producing plants or parts of plants for consumption by inmates
26 at the correctional facility as part of a prisoner work program and if the
27 correctional facility notifies the director of water resources in writing
28 of the location of the acres of land to be irrigated ~~prior to~~ BEFORE their
29 irrigation. The actual number of acres of land that a correctional
30 facility may irrigate pursuant to this subsection shall be calculated by
31 subtracting the number of acres of land the correctional facility may
32 already irrigate under subsection A or B of this section from ten.

33 F. A person who withdraws groundwater from a non-exempt well for an
34 irrigation use is exempt from subsection C, paragraph 1 of this section
35 for those withdrawals if both of the following apply:

36 1. Groundwater withdrawn from the well for an irrigation use is
37 used only on land that is owned by a person who has the right under
38 subsection A or B of this section to irrigate ten or fewer contiguous
39 acres of land at the place of the use.

40 2. Groundwater withdrawn from the well is not used on land that is
41 part of an integrated farming operation.

1 Sec. 2. Title 45, chapter 2, article 3, Arizona Revised Statutes,
2 is amended by adding section 45-437.04, to read:

3 45-437.04. Substitution of acres; net increase in withdrawals
4 disallowed

5 NOTWITHSTANDING ANY OTHER LAW, IN AN IRRIGATION NON-EXPANSION AREA,
6 A PERSON WHO OWNS ACRES OF LAND THAT MAY BE IRRIGATED PURSUANT TO SECTION
7 45-437 MAY PERMANENTLY RETIRE THOSE ACRES FROM IRRIGATION, SUBSTITUTE FOR
8 THOSE ACRES THE SAME NUMBER OF ACRES IN THE SAME IRRIGATION NON-EXPANSION
9 AREA AND USE THE ASSOCIATED WATER FOR ANY END USE IF THE PERSON
10 DEMONSTRATES TO THE DIRECTOR'S SATISFACTION THAT THE SUBSTITUTION OF ACRES
11 WILL NOT LEAD TO A NET INCREASE IN GROUNDWATER WITHDRAWAL IN THE
12 IRRIGATION NON-EXPANSION AREA.

13 Sec. 3. Willcox groundwater basin: designation as subsequent
14 irrigation non-expansion area; election; exempt
15 well moratorium

16 A. The Cochise county recorder and Graham county recorder shall
17 include a question on the 2024 general election ballot for all eligible
18 voters who reside within the Willcox groundwater basin regarding whether
19 to designate the Willcox groundwater basin as an irrigation non-expansion
20 area.

21 B. On the effective date of this act, the director of the
22 department of water resources shall transmit to the Cochise county
23 recorder and Graham county recorder a map of the Willcox groundwater
24 basin. The map shall be on a scale adequate to show with substantial
25 accuracy where the boundaries of the Willcox groundwater basin crosses the
26 boundaries of county voting precincts.

27 C. On receipt of the maps, the Cochise county recorder and Graham
28 county recorder shall include on the 2024 general election ballot the
29 following question for all eligible voters in the groundwater basin "Shall
30 the Willcox groundwater basin be designated as an irrigation non-expansion
31 area?" and appropriate boxes for the voter to check "yes" or "no". Only
32 registered voters who reside within the Willcox groundwater basin shall
33 vote on the question.

34 D. If after the general election results are certified, fifty
35 percent or more of the eligible voters vote "yes" the director of the
36 department of water resources shall:

37 1. Make and file an order designating the Willcox groundwater basin
38 as the Willcox irrigation non-expansion area.

39 2. File a true copy of the map of the Willcox irrigation
40 non-expansion area in the office of the Cochise county recorder, Graham
41 county recorder and the central and local offices of the department of
42 water resources.

1 3. Provide a copy of the order and map to the chairpersons of the
2 senate and house of representatives natural resources, energy and water
3 committees, or their successor committees.

4 E. From and after the effective date of this act until the date on
5 which the general election results are certified, an irrigation user in
6 the Willcox groundwater basin may only irrigate with groundwater from a
7 non-exempt well on acres of land that were irrigated with groundwater from
8 a non-exempt well at any time during the five years immediately preceding
9 the effective date of this act.

10 (EMERGENCY NOT ENACTED)

11 Sec. 4. Emergency

12 This act is an emergency measure that is necessary to preserve the
13 public peace, health or safety and is operative immediately as provided by
14 law.