

REFERENCE TITLE: **groundwater replenishment; member lands; areas**

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

SB 1181

Introduced by
Senator Petersen

AN ACT

AMENDING SECTIONS 48-3771 AND 48-3774, ARIZONA REVISED STATUTES; RELATING TO MULTI-COUNTY WATER CONSERVATION DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 48-3771, Arizona Revised Statutes, is amended to
3 read:

4 48-3771. District replenishment obligations; replenishment
5 location; source of replenishment; exception

6 A. For each active management area in which member lands or member
7 service areas are or may be located, the district shall replenish
8 groundwater in an amount equal to the groundwater replenishment obligation
9 for that active management area. Except as provided in section 48-3781,
10 subsection G, the district shall complete the replenishment of the
11 groundwater replenishment obligation of that active management area
12 applicable to a particular year within three full calendar years after the
13 year that the district incurs the groundwater replenishment obligation.
14 Replenishment of the groundwater replenishment obligation of an active
15 management area applicable to a particular year is complete when the
16 amount of water added to aquifers through water storage that has been
17 credited directly to the district's conservation district account pursuant
18 to title 45, chapter 3.1, plus long-term storage credits that have been
19 transferred from the district's long-term storage account to its
20 conservation district account pursuant to title 45, chapter 3.1, less the
21 groundwater replenishment obligation of member lands and member service
22 areas located in the active management area and applicable to previous
23 years, less the contract replenishment obligations relative to municipal
24 providers in the active management area for previous years and the year of
25 the calculation, equals or exceeds the groundwater replenishment
26 obligation of the active management area for that year.

27 B. With respect to the portion of the groundwater replenishment
28 obligation attributable to a parcel of member land or a member service
29 area, the district shall replenish groundwater in the active management
30 area where the parcel of member land or the member service area is located
31 in an amount equal to the groundwater replenishment obligation applicable
32 to that parcel of member land or that member service area.

33 C. Except as provided by title 45, chapter 3.1, the district may
34 replenish groundwater with central Arizona project water or water from any
35 other lawfully available source except groundwater withdrawn from within
36 an active management area.

37 D. Notwithstanding any other provision of this chapter, if a parcel
38 of member land is included in the service area of a municipal provider
39 that is not a member service area but that has been designated as having
40 an assured water supply under section 45-576, the **FOLLOWING APPLY:**

41 1. AT THE OPTION OF THE MUNICIPAL PROVIDER, THE PARCEL OF MEMBER
42 LAND MAY REMAIN AS A PARCEL OF MEMBER LAND AND SHALL RETAIN THE
43 REPLENISHMENT OBLIGATION AS A MEMBER LAND.

1 2. IF THE MUNICIPAL PROVIDER CHOOSES TO ASSUME THE MEMBER LAND
2 OBLIGATION WITHIN ITS DESIGNATION, THAT parcel of member land has no
3 parcel replenishment obligation and the district has no groundwater
4 replenishment obligation attributable to that parcel of member land for as
5 long as the designation remains in effect.

6 E. Notwithstanding any other provision of this chapter, if a parcel
7 of member land is included in the service area of a municipal provider
8 that is a member service area and that has been designated as having an
9 assured water supply under section 45-576, the FOLLOWING APPLY:

10 1. AT THE OPTION OF THE MUNICIPAL PROVIDER, THE PARCEL OF MEMBER
11 LAND MAY REMAIN AS A PARCEL OF MEMBER LAND AND SHALL RETAIN THE
12 REPLENISHMENT OBLIGATION AS A MEMBER LAND.

13 2. IF THE MUNICIPAL PROVIDER CHOOSES TO ASSUME THE MEMBER LAND
14 OBLIGATION WITHIN ITS MEMBER SERVICE AREA, THAT parcel of member land has
15 no further parcel replenishment obligation.

16 F. IF A MUNICIPAL PROVIDER'S SERVICE AREA CONTAINS MEMBER LANDS AND
17 THE MUNICIPAL PROVIDER APPLIES TO BECOME DESIGNATED AS HAVING AN ASSURED
18 WATER SUPPLY UNDER SECTION 45-576, THE MUNICIPAL PROVIDER SHALL NOTIFY THE
19 DISTRICT BEFORE THE FINAL DECISION AND ORDER OF DESIGNATION BY THE
20 DEPARTMENT OF WATER RESOURCES WHETHER IT CHOOSES TO ALLOW THE MEMBER LANDS
21 TO REMAIN AS MEMBER LANDS OR CHOOSES TO ASSUME THE MEMBER LANDS' REPLENISHMENT
22 OBLIGATION UNDER THE MUNICIPAL PROVIDER'S DESIGNATION OR MEMBER SERVICE AREA.
23 AFTER THE ORDER OF DESIGNATION IS ISSUED, NO NEW MEMBER LANDS MAY BE ENROLLED
24 WITHIN THE MUNICIPAL PROVIDER'S SERVICE AREA.

25 G. IF A MUNICIPAL PROVIDER CHOOSES TO ALLOW THE MEMBER LAND TO
26 REMAIN MEMBER LAND UNDER THIS SECTION, THE DESIGNATION OF ASSURED WATER
27 SUPPLY SHALL PROVIDE THAT THE MEMBER LAND SHALL REMAIN MEMBER LAND FOR TEN
28 YEARS AFTER THE DATE OF THE DESIGNATION OF ASSURED WATER SUPPLY. AT THE
29 END OF THE FIRST TEN YEARS OF THE DESIGNATION OF ASSURED WATER SUPPLY, THE
30 DIRECTOR OF WATER RESOURCES MAY REQUIRE IN THAT DESIGNATION OR IN ANY
31 SUBSEQUENT MODIFICATION OF THAT DESIGNATION OF ASSURED WATER SUPPLY THAT
32 PARCELS OF MEMBER LAND WITHIN THE MUNICIPAL PROVIDER'S SERVICE AREA BE
33 IDENTIFIED BY THE MUNICIPAL PROVIDER AND REDUCED BY AT LEAST ONE-THIRD BY
34 THE END OF THE FIRST FIVE-YEAR PERIOD THEREAFTER, BY TWO-THIRDS AT LEAST
35 AT THE END OF THE TEN-YEAR PERIOD THEREAFTER AND ELIMINATED ENTIRELY BY
36 THE END OF FIFTEEN YEARS THEREAFTER. ON IDENTIFICATION AND REDUCTION OF
37 THE PARCELS OF MEMBER LAND BY THE MUNICIPAL PROVIDER, THOSE PARCELS OF
38 MEMBER LAND SHALL HAVE NO FURTHER REPLENISHMENT OBLIGATION. THIS
39 SUBSECTION DOES NOT PROHIBIT THE MUNICIPAL PROVIDER FROM REDUCING MEMBER
40 LANDS BY AMOUNTS GREATER THAN PRESCRIBED BY THIS SUBSECTION.

1 Sec. 2. Section 48-3774, Arizona Revised Statutes, is amended to
2 read:

3 **48-3774. Qualification as member land**

4 A. Real property qualifies as member land only if all of the
5 following apply:

6 1. EXCEPT AS PROVIDED IN SECTION 48-3771, SUBSECTION E, the real
7 property is located in an active management area in which a part of the
8 central Arizona project aqueduct is located.

9 2. The real property is not in a member service area or in a
10 groundwater replenishment district under chapter 27 of this title.

11 3. The real property is not a water district member land or a
12 parcel of water district member land, or in a water district member
13 service area established under chapter 28 of this title.

14 4. The conditions stated in section 45-576.01, subsection B,
15 paragraphs 2 and 3 are satisfied with respect to the district at the time
16 of the qualification.

17 5. The owner of the real property, or other person or entity, such
18 as a property owners' or homeowners' association, if the person or entity
19 has proper authority, records a declaration that has been approved by the
20 district against the real property in the official records of the county
21 where the real property is located that:

22 (a) Contains the legal description of the real property.

23 (b) Declares the intent of the owner that the real property qualify
24 as member land under this chapter.

25 (c) Declares that, in order to permit the delivery of excess
26 groundwater to the real property, each parcel of member land thereafter
27 established at the real property is subject to a parcel replenishment
28 obligation and to a replenishment assessment to be determined by the
29 district.

30 (d) Declares that qualifying as member land and subjecting the real
31 property to the parcel replenishment obligation and the replenishment
32 assessment directly benefits the real property by increasing the potential
33 of the property to qualify for a certificate of assured water supply
34 issued by the department of water resources pursuant to title 45, chapter
35 2, article 9, thereby allowing the development, use and enjoyment of the
36 real property.

37 (e) Contains a covenant that is binding against the real property
38 and each parcel of member land thereafter established at the real property
39 to pay to the district a replenishment assessment based on the parcel
40 replenishment obligation in an amount determined by the district pursuant
41 to section 48-3772, subsection A.

42 (f) Declares that the district may impose a lien on the real
43 property and each parcel of member land thereafter established at the real
44 property to secure payment of the replenishment assessment and any
45 applicable replenishment reserve fee.

1 (g) Declares that the covenants, conditions and restrictions
2 contained in the declaration run with the land and bind all successors and
3 assigns of the owner.

4 B. The declaration may contain covenants, conditions and
5 restrictions in addition to those prescribed by this section. The
6 declaration may be an amendment or supplement to covenants, conditions and
7 restrictions recorded against developed or undeveloped land.

8 C. Notwithstanding subsection A of this section, no real property
9 qualifies as member land unless the municipal provider that will provide
10 water to the real property that is subject to the declaration records in
11 the official records of the county where the real property is located an
12 agreement between the district and the municipal provider that contains
13 both of the following:

14 1. The legal description of the real property and the tax parcel
15 numbers for the real property.

16 2. An agreement by the municipal provider to submit to the district
17 by March 31 of each year after the recordation of the instrument the
18 information prescribed by section 48-3775, subsection A and such other
19 information as the district may reasonably request.

20 D. Real property previously accepted as member land pursuant to
21 subsection A of this section terminates its member land status only if all
22 of the following apply:

23 1. No lot or parcel of subdivided land within the real property has
24 been sold or leased to a retail purchaser or lessee.

25 2. The state real estate commissioner has not issued a public
26 report for the real property.

27 3. If lot or parcel boundaries were previously recorded for the
28 real property, the planning agency having planning authority over the real
29 property has approved a plat vacating the lot or parcel boundaries that
30 were previously recorded for the real property.

31 4. The owner or owners of the real property or other person or
32 entity, such as a property owners' or homeowners' association, if the
33 person or entity has proper authority, records a declaration that has been
34 executed by the district and the director of water resources against the
35 real property in the official records of the county where the real
36 property is located **AND** that:

37 (a) Contains the legal description of the real property that is
38 substantially similar to the legal description of the real property
39 included in the declaration recorded pursuant to subsection A, paragraph 5
40 of this section.

41 (b) Declares that the covenants, conditions and restrictions
42 previously recorded pursuant to subsection A, paragraph 5 of this section
43 are revoked.

1 5. The agreement recorded pursuant to subsection C of this section
2 has been revoked by mutual agreement of the parties to that agreement and
3 the municipal provider has recorded notice of the revocation in the
4 official records of the county where the real property is located.

5 6. If the department of water resources has issued a certificate of
6 assured water supply for the real property, the director of water
7 resources has revoked the certificate pursuant to a written agreement for
8 revocation entered into between the holder of the certificate and the
9 director.

10 E. For the purposes of subsection D of this section, ~~a~~ "retail
11 purchaser or lessee" means a purchaser or lessee of a lot or parcel of
12 subdivided lands that is entitled to receive a public report from the
13 seller or lessor pursuant to section 32-2183, subsection I.

14 Sec. 3. Applicability

15 Sections 48-3771 and 48-3774, Arizona Revised Statute, as amended by
16 this act, apply to designations of assured water supply that are issued
17 after the effective date of this act.