

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1041

(Reference to Senate engrossed bill)

1 Page 5, strike lines 29 through 40, insert:

2 "2. "GROUNDWATER SAVINGS CERTIFICATE" MEANS A CERTIFICATE THAT
3 DEMONSTRATES THAT THE WATER FOR THE PROPOSED USE OF GROUNDWATER IS
4 PHYSICALLY AVAILABLE AND THAT THE PROPOSED USE OF GROUNDWATER IS CONSISTENT
5 WITH THE MANAGEMENT GOAL AND PLAN OF THE RELEVANT ACTIVE MANAGEMENT AREA
6 BECAUSE ALL OR A SUBSTANTIAL PORTION OF THE GROUNDWATER THAT IS OR WILL BE
7 WITHDRAWN FROM THE ACTIVE MANAGEMENT AREA WILL BE REPLENISHED WITHIN THE
8 SAME SUBBASIN AS THE PROPOSED POINT OF WITHDRAWAL AND UPGRADIENT OF THE
9 PROPOSED POINT OF WITHDRAWAL AS EVIDENCED BY THE APPLICANT'S DEMONSTRATION
10 OF ALL OF THE FOLLOWING:

11 (a) THE LAND THAT IS THE SUBJECT OF THE APPLICATION FOR A
12 GROUNDWATER SAVINGS CERTIFICATE IS OR WILL BE ENROLLED AS MEMBER LAND OR
13 MEMBER SERVICE AREA IN A MULTI-COUNTY WATER CONSERVATION DISTRICT
14 ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 22.

15 (b) ALL GROUNDWATER THAT IS OR WILL BE REPLENISHED BY THE APPLICANT
16 OR BY THE MULTI-COUNTY WATER CONSERVATION DISTRICT ON THE APPLICANT'S
17 BEHALF WILL BE REPLENISHED WITHIN THE SAME SUBBASIN AS THE POINT OF
18 WITHDRAWAL AND UPGRADIENT OF THE PROPOSED POINT OF WITHDRAWAL.

19 (c) THE DIRECTOR HAS ISSUED A DECISION PURSUANT TO SECTION 45-576.03
20 FINDING THAT THE PLAN OF OPERATION FOR THE MULTI-COUNTY WATER CONSERVATION
21 DISTRICT THAT THE APPLICANT IS ENROLLED IN PURSUANT TO TITLE 48, CHAPTER 22
22 IS CONSISTENT WITH ACHIEVING THE MANAGEMENT GOAL OF THE ACTIVE MANAGEMENT
23 AREA WHERE THE PROPOSED POINT OF WITHDRAWAL WILL BE LOCATED AND THE

1 DIRECTOR'S DECISION IS IN EFFECT AT THE TIME THE APPLICATION FOR THE
2 GROUNDWATER SAVINGS CERTIFICATE IS SUBMITTED TO THE DIRECTOR.

3 (d) THE APPLICANT HAS DEMONSTRATED PURSUANT TO GROUNDWATER MODELS
4 CONDUCTED BY THE DIRECTOR THAT ANY UNREPLENISHED GROUNDWATER THAT THE
5 APPLICANT PROPOSES TO USE IS PHYSICALLY AVAILABLE PURSUANT TO SECTION
6 45-576.10 AND THAT WELLS THAT ARE LOCATED OR HYPOTHETICALLY LOCATED ON THE
7 LAND THAT IS THE SUBJECT OF THE APPLICATION FOR A GROUNDWATER SAVINGS
8 CERTIFICATE OR WELLS THAT ARE LEGALLY AUTHORIZED TO PROVIDE WATER SERVICE
9 TO THAT LAND MEET THE REQUIREMENTS OF SECTION 45-576.10."

10 Reletter to conform

11 Page 6, between lines 8 and 9, insert:

12 "3. "POINT OF WITHDRAWAL" HAS THE SAME MEANING PRESCRIBED IN SECTION
13 45-576.10.

14 4. "UNREPLENISHED GROUNDWATER" HAS THE SAME MEANING PRESCRIBED IN
15 SECTION 45-579.10.

16 Sec. 2. Title 45, chapter 2, article 9, Arizona Revised Statutes, is
17 amended by adding section 45-576.10, to read:

18 45-576.10. Groundwater savings certificate; determinations;
19 definitions

20 A. IN DETERMINING WHETHER TO ISSUE A GROUNDWATER SAVINGS CERTIFICATE
21 PURSUANT TO SECTION 45-576, THE DIRECTOR SHALL DO ALL OF THE FOLLOWING:

22 1. DETERMINE THE VOLUME OF UNREPLENISHED GROUNDWATER THAT IS
23 PROPOSED TO BE USED BY THE APPLICANT FOR ONE HUNDRED YEARS FROM THE DATE OF
24 SUBMISSION OF THE APPLICATION FOR A GROUNDWATER SAVINGS CERTIFICATE.

25 2. DETERMINE WHETHER THE VOLUME OF UNREPLENISHED GROUNDWATER THAT IS
26 PROPOSED TO BE USED IS PHYSICALLY AVAILABLE AT THE POINT OF WITHDRAWAL FOR
27 ONE HUNDRED YEARS FROM THE DATE OF SUBMISSION OF THE APPLICATION FOR A
28 GROUNDWATER SAVINGS CERTIFICATE.

29 3. FIND THAT THE VOLUME OF UNREPLENISHED GROUNDWATER THAT IS
30 PROPOSED TO BE USED IS PHYSICALLY AVAILABLE IF THE CURRENT GROUNDWATER
31 MODEL CONDUCTED BY THE DIRECTOR FOR THE RELEVANT ACTIVE MANAGEMENT AREA IN
32 WHICH THE POINT OF WITHDRAWAL WILL BE LOCATED SHOWS THAT THE

1 DEPTH-TO-STATIC WATER LEVEL, AT THE POINT OF WITHDRAWAL ONLY, WILL BE, ON
2 THE EXPIRATION OF ONE HUNDRED YEARS OF PUMPING THE ANNUAL VOLUME OF
3 UNREPLENISHED GROUNDWATER FROM THE DATE OF THE SUBMISSION OF THE
4 APPLICATION, EQUAL TO OR LESS THAN THE LESSER OF THE FOLLOWING:

5 (a) THE DEPTH TO BEDROCK BELOW THE POINT OF WITHDRAWAL.

6 (b) IF THE POINT OF WITHDRAWAL IS IN AN ACTIVE MANAGEMENT AREA THAT
7 IS NOT THE PINAL ACTIVE MANAGEMENT AREA, ONE THOUSAND FEET BELOW LAND
8 SURFACE.

9 (c) IF THE POINT OF WITHDRAWAL IS IN THE PINAL ACTIVE MANAGEMENT
10 AREA, ONE THOUSAND ONE HUNDRED FEET BELOW LAND SURFACE.

11 4. ISSUE A PRELIMINARY PHYSICAL AVAILABILITY DETERMINATION AT THE
12 REQUEST OF THE APPLICANT BEFORE APPLYING FOR A GROUNDWATER SAVINGS
13 CERTIFICATE. THE DIRECTOR MAY CONSIDER AN ALTERNATIVE METHODOLOGY PROPOSED
14 BY THE APPLICANT TO DETERMINE PHYSICAL AVAILABILITY IF A PRELIMINARY
15 DETERMINATION SHOWS THAT THE VOLUME OF UNREPLENISHED GROUNDWATER THAT IS
16 PROPOSED TO BE USED IS NOT PHYSICALLY AVAILABLE.

17 5. DETERMINE PHYSICAL AVAILABILITY FOR PURPOSES OF THIS SECTION
18 WITHIN SIXTY DAYS FROM THE DATE AN APPLICATION FOR A GROUNDWATER SAVINGS
19 CERTIFICATE OR A REQUEST FOR A PRELIMINARY DETERMINATION IS SUBMITTED TO
20 THE DIRECTOR.

21 6. ISSUE A GROUNDWATER SAVINGS CERTIFICATE FOR THE VOLUME OF
22 GROUNDWATER THAT IS PROPOSED TO BE USED PURSUANT TO SECTION 45-576 IF THE
23 VOLUME OF UNREPLENISHED GROUNDWATER THAT IS PROPOSED TO BE USED IS
24 DETERMINED TO BE PHYSICALLY AVAILABLE IN ACCORDANCE WITH THIS SECTION.

25 B. FOR THE PURPOSES OF THIS SECTION:

26 1. THE DIRECTOR SHALL NOT REQUIRE THAT THE APPLICANT CONDUCT A
27 HYDROLOGIC STUDY TO DEMONSTRATE PHYSICAL AVAILABILITY.

28 2. ALL REPLENISHED GROUNDWATER SHALL BE DEEMED PHYSICALLY AVAILABLE
29 IF THE APPLICANT OR THE MULTI-COUNTY WATER CONSERVATION DISTRICT THAT THE
30 APPLICANT IS ENROLLED IN PURSUANT TO TITLE 48, CHAPTER 22 REPLENISHES THE
31 GROUNDWATER WITHIN THE SAME SUBBASIN AS THE PROPOSED POINT OF WITHDRAWAL
32 AND UPGRADIENT OF THE PROPOSED POINT OF WITHDRAWAL.

C. FOR THE PURPOSES OF THIS SECTION:

1. "POINT OF WITHDRAWAL" MEANS THE WELL OR WELLS THAT ARE PROPOSED TO BE USED TO PUMP THE VOLUME OF GROUNDWATER THAT IS PROPOSED TO BE USED BY THE APPLICANT.

2. "REPLENISHED GROUNDWATER" MEANS GROUNDWATER THAT IS NOT UNREPLENISHED GROUNDWATER.

3. "UNREPLENISHED GROUNDWATER" MEANS, FOR GROUNDWATER WITHDRAWN FROM WITHIN AN ACTIVE MANAGEMENT AREA IN WHICH A MULTI-COUNTY WATER CONSERVATION DISTRICT HAS BEEN ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 22, THE DIFFERENCE BETWEEN THE ANNUAL VOLUME OF GROUNDWATER THAT A GROUNDWATER USER WITHDRAWS FROM THE ACTIVE MANAGEMENT AREA AND THE ANNUAL VOLUME OF GROUNDWATER THAT THE GROUNDWATER USER, OR THE MULTI-COUNTY WATER CONSERVATION DISTRICT ACTING ON THE GROUNDWATER USER'S BEHALF, REPLENISHES WITHIN THE SAME SUBBASIN AS THE PROPOSED POINT OF WITHDRAWAL AND UPGRADIENT OF THE PROPOSED POINT OF WITHDRAWAL.

Sec. 3. Section 48-3701, Arizona Revised Statutes, is amended to read:

48-3701. Definitions

In this chapter, unless the context otherwise requires:

1. "Active management area" means an active management area established under title 45, chapter 2, article 2.

2. "Board" means the board of directors of a multi-county water conservation district.

3. "Contract replenishment obligation" means an amount of groundwater that the district contracts to replenish in a year on behalf of a municipal provider pursuant to a contract authorized under section 48-3772, subsection B, paragraph 9.

4. "Credits" means any groundwater in addition to the amount of groundwater that may be used at a member land or delivered within a member service area for use within the member service area pursuant to the applicable assured water supply rules adopted by the department of water resources.

1 5. "Declaration" means an instrument recorded against real property
2 and conforming to the requirements prescribed by section 48-3774,
3 subsection A, paragraph 5.

4 6. "District" means a multi-county water conservation district
5 organized under the authority of this chapter.

6 7. "Excess groundwater" means an amount of groundwater equal to that
7 amount of groundwater delivered to a member land in a calendar year or
8 delivered within a member service area by the municipal provider for that
9 member service area in a calendar year in excess of the amount of
10 groundwater that may be used at the member land in that calendar year or
11 that may be delivered by the municipal provider for use within the member
12 service area in that calendar year and consistent with the applicable
13 assured water supply rules adopted by the department of water resources for
14 the active management area where the member land or the member service area
15 is located.

16 8. "Excess groundwater increment" means the amount by which excess
17 groundwater reported for a member service area under section 48-3775,
18 subsection B in any year exceeds the maximum amount of excess groundwater
19 reported for that member service area in any prior year.

20 9. "Groundwater replenishment obligation" means, for each active
21 management area in which member lands or member service areas are or may be
22 located, the total of the cumulative parcel replenishment obligation of all
23 parcels of member land in that active management area for a particular
24 calendar year plus the cumulative service area replenishment obligation of
25 all member service areas in that active management area for a particular
26 calendar year.

27 10. "GROUNDWATER SAVINGS CERTIFICATE" HAS THE MEANING PRESCRIBED IN
28 SECTION 45-576.

29 ~~10.~~ 11. "Member land" means any real property that meets the
30 requirements of section 48-3774.

1 ~~11.~~ 12. "Member service area" means the service area of a municipal
2 provider that qualifies as a member service area under section 48-3780,
3 including any additions to or extensions of the service area.

4 ~~12.~~ 13. "Multi-county water conservation district" means a district
5 composed of three or more counties that have joined together for the
6 creation of a district.

7 ~~13.~~ 14. "Municipal provider" means a city, town or private water
8 company or an irrigation district that supplies water for non-irrigation
9 use.

10 ~~14.~~ 15. "Parcel of member land" means any portion of member land
11 for which the tax assessor for the county in which the member land is
12 located has issued a separate county parcel number.

13 ~~15.~~ 16. "Parcel replenishment obligation" means, with respect to
14 any particular parcel of member land, an amount of groundwater that is
15 equal to the amount of groundwater delivered to the parcel of member land
16 in a calendar year multiplied by the percentage that the excess groundwater
17 of the applicable member land for that year bears to the total amount of
18 groundwater delivered to the applicable member land during that year.

19 ~~16.~~ 17. "Population" means the population determined in the most
20 recent United States decennial census.

21 ~~17.~~ 18. "Private water company" has the same meaning prescribed in
22 section 45-402.

23 ~~18.~~ 19. "Projected replenishment obligation" means for each active
24 management area, the district's total projected annual groundwater
25 replenishment obligation for each of the one hundred years following
26 submission of the district plan of operation.

27 ~~19.~~ 20. "Replenish" means to increase the amount of groundwater in
28 an aquifer through water storage pursuant to title 45, chapter 3.1 for the
29 purpose of meeting the obligations of article 4 of this chapter.

30 ~~20.~~ 21. "Reserve target" means the volume calculated for each
31 active management area as prescribed by section 48-3772, subsection E.

1 ~~21.~~ 22. "Resolution" means a resolution adopted by the governing
2 body of a city or town, by the board of directors of a private water
3 company that is a corporation, by the general partners of a private water
4 company that is a partnership or by the individual owners of a private
5 water company that is individually owned.

6 ~~22.~~ 23. "Secretary" means the secretary of the interior of the
7 United States of America.

8 ~~23.~~ 24. "Service area" has the same meaning prescribed in section
9 45-402.

10 ~~24.~~ 25. "Service area replenishment obligation" means, with respect
11 to any particular member service area, the excess groundwater of that
12 member service area in a particular calendar year reduced by the
13 replenishment credits, if any, applied by the municipal provider with
14 respect to the member service area under section 48-3772, subsection H.

15 ~~25.~~ 26. "Water storage" has the same meaning prescribed in section
16 45-802.01.

17 Sec. 4. Section 48-3771, Arizona Revised Statutes, is amended to
18 read:

19 48-3771. District replenishment obligations; replenishment
20 location; source of replenishment; exception

21 A. For each SUBBASIN IN AN active management area in which member
22 lands or member service areas are or may be located, the district shall
23 replenish groundwater in an amount equal to the groundwater replenishment
24 obligation for that ~~active management area~~ SUBBASIN. Except as provided in
25 section 48-3781, subsection G, the district shall complete the
26 replenishment of the groundwater replenishment obligation of that ~~active~~
27 ~~management area~~ SUBBASIN applicable to a particular year within three full
28 calendar years after the year that the district incurs the groundwater
29 replenishment obligation. Replenishment of the groundwater replenishment
30 obligation of A SUBBASIN IN an active management area applicable to a
31 particular year is complete when the amount of water added to aquifers
32 through water storage that has been credited directly to the district's

1 conservation district account pursuant to title 45, chapter 3.1, plus long-
2 term storage credits that have been transferred from the district's long-
3 term storage account to its conservation district account pursuant to title
4 45, chapter 3.1, less the groundwater replenishment obligation of member
5 lands and member service areas located in the ~~active management area~~
6 SUBBASIN and applicable to previous years, less the contract replenishment
7 obligations relative to municipal providers in the ~~active management area~~
8 SUBBASIN for previous years and the year of the calculation, equals or
9 exceeds the groundwater replenishment obligation of the ~~active management~~
10 ~~area~~ SUBBASIN for that year.

11 B. With respect to the portion of the groundwater replenishment
12 obligation attributable to a parcel of member land or a member service
13 area, the district shall replenish groundwater UPGRADIENT OF THE WELL OR
14 WELLS THAT ARE USED TO SERVE THE PARCEL OF MEMBER LAND OR MEMBER SERVICE
15 AREA AND in the ~~active management area~~ SUBBASIN where the parcel of member
16 land or the member service area is located in an amount equal to the
17 groundwater replenishment obligation applicable to that parcel of member
18 land or that member service area.

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

23 D. Notwithstanding any other provision of this chapter, if a parcel
24 of member land is included in the service area of a municipal provider that
25 is not a member service area but that has been designated as having an
26 assured water supply under section 45-576, the parcel of member land has no
27 parcel replenishment obligation and the district has no groundwater
28 replenishment obligation attributable to that parcel of member land for as
29 long as the designation remains in effect.

30 E. Notwithstanding any other provision of this chapter, if a parcel
31 of member land is included in the service area of a municipal provider that
32 is a member service area and that has been designated as having an assured

- 1 water supply under section 45-576, the parcel of member land has no further
- 2 parcel replenishment obligation."
- 3 Renumber to conform
- 4 Amend title to conform

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C: MR