

REFERENCE TITLE: effluent; proportional share; recharge; compensation

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HB 2413

Introduced by
Representative Kolodin

AN ACT

AMENDING TITLE 45, CHAPTER 1, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 16; RELATING TO EFFLUENT.

(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 1, Arizona Revised Statutes, is
3 amended by adding article 16, to read:

4 ARTICLE 16. EFFLUENT COMPENSATION

5 45-361. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "ELIGIBLE CUSTOMER" MEANS A CUSTOMER LOCATED IN AN ACTIVE
8 MANAGEMENT AREA THAT HAS A GROUNDWATER MANAGEMENT GOAL OF SAFE YIELD AND
9 IN WHICH A MUNICIPAL PROVIDER DOES ALL OF THE FOLLOWING:

10 (a) OWNS OR OPERATES A WASTEWATER SYSTEM THAT IS CONNECTED TO THE
11 CUSTOMER'S PROPERTY.

12 (b) PROVIDES POTABLE WATER TO THE CUSTOMER.

13 (c) CHARGES THE CUSTOMER FOR WASTEWATER SERVICE.

14 2. "MUNICIPAL PROVIDER" HAS THE SAME MEANING PRESCRIBED IN SECTION
15 45-561.

16 45-362. Effluent; ownership; mandatory compensation

17 A. NOTWITHSTANDING ANY OTHER LAW, A MUNICIPAL PROVIDER THAT HAS AN
18 EXCLUSIVE WATER SERVICE AREA, THAT OWNS OR OPERATES A WASTEWATER SYSTEM
19 AND THAT PRODUCES EFFLUENT FROM WASTEWATER THE MUNICIPAL PROVIDER RECEIVES
20 FROM ELIGIBLE CUSTOMERS SHALL COMPENSATE THE ELIGIBLE CUSTOMERS FOR A
21 PROPORTIONAL SHARE OF THE FULL MARKET VALUE OF EFFLUENT THAT THE MUNICIPAL
22 PROVIDER DOES NOT RECHARGE BACK IN THE ELIGIBLE CUSTOMERS' ACTIVE
23 MANAGEMENT AREA.

24 B. EFFLUENT GENERATED BY WASTEWATER THAT AN ELIGIBLE CUSTOMER
25 PROVIDES TO MUNICIPAL PROVIDERS AND THAT THE MUNICIPAL PROVIDER DOES NOT
26 RECHARGE IN THE ELIGIBLE CUSTOMER'S ACTIVE MANAGEMENT AREA IS THE PROPERTY
27 OF THE ELIGIBLE CUSTOMER.

28 C. BEFORE CHARGING OR BILLING AN ELIGIBLE CUSTOMER FOR WATER
29 SERVICE, EACH MUNICIPAL PROVIDER SHALL:

30 1. DETERMINE THE TOTAL VOLUME OF WASTEWATER THAT THE MUNICIPAL
31 PROVIDER RECEIVED FROM THE ELIGIBLE CUSTOMER DURING THE BILLING PERIOD.

32 2. DETERMINE THE TOTAL VOLUME OF EFFLUENT PRODUCED BY THE
33 WASTEWATER THAT THE ELIGIBLE CUSTOMER PROVIDED TO THE MUNICIPAL PROVIDER
34 DURING THE BILLING PERIOD.

35 3. DETERMINE THE TOTAL VOLUME OF EFFLUENT GENERATED BY WASTEWATER
36 THAT THE ELIGIBLE CUSTOMER PROVIDED AND THAT THE MUNICIPAL PROVIDER
37 RECHARGED IN THE ELIGIBLE CUSTOMER'S ACTIVE MANAGEMENT AREA DURING THE
38 BILLING PERIOD AS CERTIFIED BY THE DIRECTOR.

39 4. DETERMINE THE TOTAL VOLUME OF EFFLUENT GENERATED BY WASTEWATER
40 THAT THE ELIGIBLE CUSTOMER PROVIDED AND THAT THE MUNICIPAL PROVIDER DID
41 NOT RECHARGE IN THE ELIGIBLE CUSTOMER'S ACTIVE MANAGEMENT AREA DURING THE
42 BILLING PERIOD.

43 5. DETERMINE THE FULL MARKET VALUE OF THE TOTAL VOLUME OF EFFLUENT
44 GENERATED BY WASTEWATER THAT THE ELIGIBLE CUSTOMER PROVIDED DURING THE

1 BILLING PERIOD AND THAT THE MUNICIPAL PROVIDER DID NOT RECHARGE IN THE
2 ELIGIBLE CUSTOMER'S ACTIVE MANAGEMENT AREA.

3 6. DETERMINE THE ELIGIBLE CUSTOMER'S PROPORTIONAL SHARE OF THE
4 TOTAL VOLUME OF EFFLUENT GENERATED BY WASTEWATER THAT THE ELIGIBLE
5 CUSTOMER PROVIDED DURING THE BILLING PERIOD AND THAT THE MUNICIPAL
6 PROVIDER RECHARGED IN THE ELIGIBLE CUSTOMER'S ACTIVE MANAGEMENT AREA.

7 7. DETERMINE THE ELIGIBLE CUSTOMER'S PROPORTIONAL SHARE OF THE FULL
8 MARKET VALUE OF THE TOTAL VOLUME OF EFFLUENT GENERATED BY WASTEWATER THAT
9 THE ELIGIBLE CUSTOMER PROVIDED DURING THE BILLING PERIOD AND THAT THE
10 MUNICIPAL PROVIDER DID NOT RECHARGE IN THE ELIGIBLE CUSTOMER'S ACTIVE
11 MANAGEMENT AREA.

12 8. AWARD THE ELIGIBLE CUSTOMER A CREDIT ON THE ELIGIBLE CUSTOMER'S
13 BILL THAT IS EQUAL TO THE ELIGIBLE CUSTOMER'S PROPORTIONAL SHARE OF THE
14 FULL MARKET VALUE OF THE TOTAL VOLUME OF EFFLUENT GENERATED BY WASTEWATER
15 THAT THE ELIGIBLE CUSTOMER PROVIDED DURING THE BILLING PERIOD AND THAT THE
16 MUNICIPAL PROVIDER DID NOT RECHARGE IN THE ELIGIBLE CUSTOMER'S ACTIVE
17 MANAGEMENT AREA.

18 D. FOR THE PURPOSES OF THIS SECTION:

19 1. EFFLUENT THAT A MUNICIPAL PROVIDER RECHARGES IN AN ELIGIBLE
20 CUSTOMER'S ACTIVE MANAGEMENT AREA INCLUDES BOTH OF THE FOLLOWING:

21 (a) EFFLUENT THAT A MUNICIPAL PROVIDER USES TO SATISFY A
22 REPLENISHMENT OBLIGATION PURSUANT TO TITLE 48, CHAPTER 22, ARTICLE 4.

23 (b) EFFLUENT THAT A MUNICIPAL PROVIDER RECHARGES IN THE ELIGIBLE
24 CUSTOMER'S ACTIVE MANAGEMENT AREA WITHOUT RECEIVING ANY CONSIDERATION.

25 2. EFFLUENT THAT A MUNICIPAL PROVIDER DOES NOT RECHARGE IN AN
26 ELIGIBLE CUSTOMER'S ACTIVE MANAGEMENT AREA INCLUDES BOTH OF THE FOLLOWING:

27 (a) EFFLUENT THAT IS RECHARGED PURSUANT TO CHAPTER 3.1 OF THIS
28 TITLE TO GENERATE, EARN OR ACCRUE LONG-TERM STORAGE CREDITS.

29 (b) EFFLUENT THAT IS RECHARGED TO SATISFY A LEGAL, REGULATORY,
30 ADMINISTRATIVE, COMPLIANCE OR CONTRACTUAL NEED OR OBLIGATION OF THE
31 MUNICIPAL PROVIDER BEYOND THE REQUIREMENTS OF THIS SECTION.

32 45-363. Agency enforcement; private right of action;
33 challenges; damages

34 A. THE DIRECTOR MAY ENFORCE THIS ARTICLE.

35 B. AN ELIGIBLE CUSTOMER OR THE ELIGIBLE CUSTOMER'S AGENT MAY DO
36 EITHER OF THE FOLLOWING:

37 1. SUBMIT A WRITTEN COMPLAINT TO THE DIRECTOR THAT CHALLENGES A
38 MUNICIPAL PROVIDER'S DETERMINATION OF PROPORTIONAL SHARE PURSUANT TO
39 SECTION 45-362, SUBSECTION C, PARAGRAPH 6 OR 7.

40 2. FILE A PRIVATE RIGHT OF ACTION IN THE SUPERIOR COURT OF THIS
41 STATE THAT CHALLENGES A MUNICIPAL PROVIDER'S DETERMINATION OF PROPORTIONAL
42 SHARE PURSUANT TO SECTION 45-362, SUBSECTION C, PARAGRAPH 6 OR 7.

43 C. ON RECEIPT OF A WRITTEN COMPLAINT OR ON NOTICE THAT AN ELIGIBLE
44 CUSTOMER OR THE ELIGIBLE CUSTOMER'S AGENT HAS FILED A COMPLAINT IN THE
45 SUPERIOR COURT OF THIS STATE, THE DIRECTOR SHALL INVESTIGATE THE

1 ALLEGATIONS CONTAINED IN THE COMPLAINT AND PROVIDE ANY RELEVANT
2 INFORMATION TO THE ELIGIBLE CUSTOMER, THE ELIGIBLE CUSTOMER'S AGENT AND
3 THE MUNICIPAL PROVIDER.

4 D. IF THE SUPERIOR COURT OR THE DIRECTOR FINDS THAT A MUNICIPAL
5 PROVIDER MISCALCULATED AN ELIGIBLE CUSTOMER'S PROPORTIONAL SHARE AND
6 UNDERCOMPENSATED THE ELIGIBLE CUSTOMER, THE MUNICIPAL PROVIDER SHALL BE
7 LIABLE TO THE ELIGIBLE CUSTOMER FOR DAMAGES, ATTORNEY FEES AND INTEREST.