

REFERENCE TITLE: replenishment obligation; one hundred-year period

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

HB 2567

Introduced by
Representative Griffin

AN ACT

AMENDING SECTION 48-3772, ARIZONA REVISED STATUTES; RELATING TO
GROUNDWATER REPLENISHMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 48-3772, Arizona Revised Statutes, is amended to
3 read:
4 48-3772. Duties and powers of district regarding
5 replenishment
6 A. The district shall:
7 1. Establish annually the costs and expenses to replenish
8 groundwater pursuant to this article with respect to all parcels of member
9 lands and all member service areas located in each active management area,
10 including capital expenses, debt service expenses, the operation,
11 maintenance, replacement and administrative costs and expenses of the
12 district, replenishment reserve costs and expenses as provided in
13 subsection E of this section and reasonable reserves. Separate
14 calculations of costs and expenses shall be made for each active
15 management area in which member lands or member service areas are located
16 and for each membership category. Costs and expenses attributed by the
17 district to contract replenishment obligations shall not be included in
18 these calculations.
19 2. Provide for the payment of all costs and expenses to replenish
20 groundwater pursuant to this chapter and the payment of operation,
21 maintenance, replacement and administrative costs and expenses and debt
22 service expenses of the district.
23 3. Levy an annual replenishment assessment against each parcel of
24 member land pursuant to section 48-3778 and an annual replenishment tax
25 against each municipal provider that has a member service area pursuant to
26 section 48-3781 to pay the district's costs and expenses as established
27 pursuant to paragraph 1 of this subsection.
28 4. Levy a contract replenishment tax against municipal providers
29 that are parties to contracts authorized under subsection B, paragraph 9
30 of this section to pay the district's costs and expenses to replenish
31 groundwater based on contract replenishment obligations.
32 5. Establish and maintain reserve accounts in amounts as may be
33 deemed necessary to perform the district's obligations under this article.
34 6. Fulfill all obligations under resolutions adopted pursuant to
35 subsection B, paragraph 10 of this section.
36 7. Levy an activation fee as follows:
37 (a) For subdivisions within member lands and member service areas
38 that are enrolled before May 6, 2004 and that had not been issued a public
39 report before August 12, 2005, the district shall levy a onetime
40 activation fee against each housing unit to be constructed within the
41 subdivision.
42 (b) For subdivisions within member lands and member service areas
43 that are enrolled on or after May 6, 2004, the district shall levy a
44 onetime activation fee against each housing unit to be constructed within
45 the subdivision.

1 (c) The activation fee shall be paid to the district according to
2 either of the following schedules, whichever the subdivider elects:

3 (i) Paid in full before issuance of a public report for each real
4 estate subdivision identified in subdivision (a) or (b) of this paragraph.

5 (ii) One-half paid before issuance of a public report for each real
6 estate subdivision identified in subdivision (a) or (b) of this paragraph
7 and the remaining amount paid no later than one year after the issuance of
8 the public report. The total amount of the activation fee must be the
9 amount of the activation fee in effect at the time of the initial payment.
10 Payment of the initial one-half of the activation fee pursuant to this
11 item constitutes sufficient payment of applicable fees for notice of
12 intent to subdivide as prescribed in section 32-2181, subsection C and for
13 issuance of a public report as prescribed in section 32-2183, subsection G
14 and section 45-576, subsection C, except that on failure to pay the
15 remaining amount, the commissioner shall suspend the public report for
16 that subdivision pursuant to section 32-2183.

17 (d) The activation fee shall be established annually by the
18 district. The amount of the activation fee to be paid to the district
19 under subdivision (c) of this paragraph must be the amount of the
20 activation fee in effect at the time of payment. Revenues from the
21 activation fee together with revenues from other sources that are legally
22 available to the district for those uses shall be used by the district to
23 acquire, lease or exchange water or water rights and develop
24 infrastructure necessary for the district to perform its replenishment
25 obligations.

26 8. For any year, set all of its rates and charges associated with
27 the acquisition, lease or exchange of water or water rights and
28 development of infrastructure necessary for the district to perform its
29 replenishment obligations, other than the annual membership dues
30 established pursuant to section 48-3779, so that the total projected
31 revenues from revenue sources other than the annual membership dues, that
32 are legally available to the district in that year to pay costs associated
33 with the acquisition, lease or exchange of water or water rights and
34 development of infrastructure necessary for the district to perform its
35 replenishment obligations, shall be at least three times the total
36 projected revenues from the annual membership dues in that year. For the
37 purposes of this paragraph, costs associated with the acquisition, lease
38 or exchange of water or water rights do not include the annual costs
39 associated with delivery of water for replenishment purposes.

40 B. The district may:

41 1. Acquire, develop, construct, operate, maintain, replace and
42 acquire permits for water storage, storage facilities and recovery wells
43 for replenishment purposes.

1 2. Acquire, transport, hold, exchange, own, lease, store or
2 replenish water, except groundwater withdrawn from an active management
3 area, subject to the provisions of title 45, for the benefit of member
4 lands and member service areas.

5 3. Acquire, hold, exchange, own, lease, retire or dispose of water
6 rights for the benefit of member lands and member service areas. **THE**
7 **DISTRICT MAY ACQUIRE, HOLD, EXCHANGE, OWN, LEASE OR PURCHASE ENOUGH WATER**
8 **OR RIGHTS TO FULFILL THE DISTRICT'S EXPECTED REPLENISHMENT OBLIGATION FOR**
9 **THE NEXT ONE HUNDRED YEARS.**

10 4. Require municipal providers to provide such information, in such
11 form and within the time limits prescribed by the district, as may be
12 necessary to carry out the purpose of this chapter.

13 5. Levy and collect assessments, fees, charges, taxes and other
14 revenues as are provided in this chapter for the financing of
15 replenishment activities.

16 6. Contract for or perform feasibility studies of water storage,
17 storage facilities and recovery wells for replenishment purposes.

18 7. Acquire real and personal property for water storage, storage
19 facilities and recovery wells for replenishment purposes by purchase,
20 lease, donation, dedication, exchange or other lawful means.

21 8. Use any facilities and any excess storage capacity of any state
22 demonstration projects undertaken pursuant to title 45, chapter 3.1 for
23 water storage for replenishment purposes.

24 9. Subject to subsection G of this section, contract with any
25 municipal provider having a member service area to replenish groundwater
26 on behalf of the municipal provider and with respect to the member service
27 area in an amount in excess of the sum of the service area replenishment
28 obligations applicable to the member service area for all years in which
29 the district has not completed the replenishment of the groundwater
30 replenishment obligation for the member service area.

31 10. Adopt resolutions granting water availability status to a member
32 service area of a city, town or private water company and committing to
33 replenish a specified average annual volume of water in a location where
34 the city, town or private water company may physically access the water
35 for service to its customers, if all of the following apply:

36 (a) The district has reviewed its requirements for transportation
37 of central Arizona project water, its contracts, subcontracts, letter
38 agreements, excess water contracts and other contractual obligations and
39 its member service area and member land requirements and has determined
40 that the district can meet those obligations and that capacity remains in
41 the central Arizona project to meet the obligations undertaken through the
42 resolution.

1 (b) The resolution acknowledges that the commitment to replenish
2 the specified average annual volume of water in the location cited in the
3 resolution shall be a permanent obligation of the district, unless one of
4 the following applies:

5 (i) A permanent substitute supply of water is found for the city,
6 town or private water company and the substitution is approved by the
7 director of water resources, thus terminating the water availability
8 status of the member service area.

9 (ii) The requirements of section 45-576.07, subsection A are not
10 met, and thus the director of water resources does not issue an order
11 granting or maintaining the city, town or private water company as having
12 an assured water supply based in whole or in part on section 45-576.07.
13 If no order is issued within two years of the district adopting the
14 resolution, the resolution may be repealed, and the district shall be
15 relieved of all obligations under the resolution.

16 (c) The average annual volume of water specified in the resolution,
17 when added to the average annual volume of water specified in all other
18 resolutions adopted pursuant to this paragraph, does not exceed twenty
19 thousand acre-feet.

20 (d) The district has entered into an agreement with the city, town
21 or private water company under which the city, town or private water
22 company will hold for the district's future use, and provide to the
23 district when needed, sufficient water to meet the obligations undertaken
24 by the district through the resolution.

25 (e) The district determines that the obligations undertaken by the
26 district through the resolution will not increase annual replenishment
27 assessment rates or costs to central Arizona project contract and
28 subcontract holders and its member service areas and member lands.

29 (f) The director of water resources has found, pursuant to section
30 45-576.07, subsection H, that the district has the capability to grant
31 water availability status to member service areas.

32 11. Provide in resolutions adopted pursuant to paragraph 10 of this
33 subsection that the district may fulfill its obligations under the
34 resolution in any year by directly delivering to the city, town or private
35 water company the water that otherwise would have been replenished
36 pursuant to the resolution, if all of the following apply:

37 (a) The district has reviewed its requirements for transportation
38 of central Arizona project water, its contracts, subcontracts, letter
39 agreements, excess water contracts and other contractual obligations and
40 its member service area and member land requirements and has determined
41 that the district can meet those obligations and that capacity remains in
42 the central Arizona project to make direct deliveries pursuant to this
43 paragraph.

1 (b) The district determines that the delivery will not increase
2 annual replenishment assessment rates or costs to central Arizona project
3 contract and subcontract holders, its member service area and member
4 lands.

5 12. Enter into agreements with a city, town or private water company
6 that will have water made available to it through a resolution adopted
7 pursuant to paragraph 10 of this subsection and under which the city, town
8 or private water company compensates the district for the costs and fair
9 value of the water supply provided by the district.

10 13. Issue revenue bonds pursuant to article 3 of this chapter to
11 fund the costs and expenses of the district for the acquisition, lease or
12 exchange of water or water rights and the development of infrastructure
13 necessary for the district to perform its replenishment obligations
14 subject to the following:

15 (a) The principal of, interest and premiums, if any, on revenue
16 bonds issued pursuant to article 3 of this chapter to acquire, lease or
17 exchange water or water rights and develop infrastructure necessary for
18 the district to perform its replenishment obligations are not payable from
19 any revenues of the district other than revenues generated or collected
20 pursuant to this article that are legally available to the district for
21 those purposes and revenues from the investment of the proceeds of the
22 bonds.

23 (b) The district may not use the proceeds of the bonds to acquire
24 or lease:

25 (i) Groundwater, as defined in section 45-101, except as expressly
26 authorized in sections 45-547, 45-553 and 45-554.

27 (ii) Surface water, as defined in section 45-101, that is the
28 subject of a general adjudication pursuant to title 45, chapter 1,
29 article 9.

30 (c) ~~Nothing in~~ Subdivision (b) of this paragraph ~~prohibits~~ DOES NOT
31 PROHIBIT the district from acquiring or leasing central Arizona project
32 water.

33 14. Except as provided in section 48-3780.01, subsection B, in
34 addition to any other assessments, fees, charges or taxes levied and
35 collected under this chapter, or under any declaration, contract or
36 agreement entered into under this chapter, charge annual dues for
37 membership pursuant to section 48-3779 against each parcel of member land
38 and each municipal provider that has a member service area.

39 C. The functions of the district under subsection B, paragraph 1 of
40 this section may be performed on behalf of the district by other persons
41 under contract with the district.

42 D. The capital costs of the facilities of any state demonstration
43 projects used by the district pursuant to subsection B, paragraph 8 of
44 this section shall not be included in the capital costs and expenses

1 established by the district under subsection A, paragraph 1 of this
2 section.

3 E. The district shall establish and maintain a replenishment
4 reserve as follows:

5 1. The district shall calculate a reserve target for each of the
6 three active management areas within the district and shall identify the
7 reserve target in the plan of operation prepared pursuant to section
8 45-576.02. The reserve target for each active management area shall be
9 calculated as follows:

10 (a) For each active management area, add together the projected
11 replenishment obligation for each of the one hundred years following
12 submission of the plan of operation. For the purposes of this
13 subdivision, each active management area's projected replenishment
14 obligation does not include replenishment obligations under resolutions
15 adopted pursuant to subsection B, paragraph 10 of this section or
16 replenishment obligations for category 2 member lands.

17 (b) Subtract from the sum of the active management area's projected
18 replenishment obligation over the one hundred-year period the sum of the
19 following volumes of water derived from sources identified in the plan as
20 water that the district plans to use to meet its replenishment obligations
21 for that active management area:

22 (i) The annual volume of each nondeclining, long-term municipal and
23 industrial subcontract for central Arizona project water multiplied by one
24 hundred.

25 (ii) The annual volume of water under leases or contracts that can
26 be made physically and legally available to the district consistent with
27 the rules adopted pursuant to section 45-576, subsection H, multiplied by
28 the number of years, not to exceed one hundred, in which the water is to
29 be made available to the district. The water need not be continuously
30 available to be included in this item. A lease or contract shall not be
31 considered under this item if the water to be made available under the
32 lease or contract is for a term of less than twenty years.

33 (iii) The total volume of groundwater that the district plans to
34 transport to the active management area during the next one hundred years
35 as allowed by title 45, chapter 2, article 8.1.

36 (iv) The total volume of all sources of water not identified in
37 items (i), (ii) or (iii) of this subdivision that will not be held by the
38 district under a lease or contract. Volumes to be included under this
39 item must be consistent with the rules adopted by the director pursuant to
40 section 45-576, subsection H.

41 (c) Multiply the result from subdivision (b) of this paragraph by
42 twenty percent. The result is the reserve target for the active
43 management area.

1 2. The reserve target for an active management area may be adjusted
2 by the district, subject to the approval of the director of water
3 resources, based on changes in either of the following:

4 (a) The active management area's projected replenishment
5 obligation.

6 (b) The volumes of water identified in the plan of operation
7 prepared pursuant to section 45-576.02 as water that the district plans to
8 use to meet its replenishment obligations for that active management area.

9 3. The district shall include a replenishment reserve charge in the
10 annual replenishment assessment levied against all parcels of category 1
11 member land as provided in section 48-3774.01 and in the annual
12 replenishment tax levied against all municipal providers that have member
13 service areas as provided in section 48-3780.01. The replenishment
14 reserve charge for each active management area is established annually by
15 the district based on the reserve target for that active management area.

16 4. The district shall levy a replenishment reserve fee against
17 category 1 member lands pursuant to section 48-3774.01 and against member
18 service areas pursuant to section 48-3780.01. For category 1 member lands
19 the fee is equal to twice the applicable replenishment reserve charge
20 multiplied by the total projected average annual replenishment obligation
21 for the member lands as reported by the director of water resources
22 pursuant to section 45-578, subsection F. For member service areas the
23 fee is equal to twice the applicable replenishment reserve charge
24 multiplied by the excess groundwater increment. With the approval of the
25 district and the director of water resources, long-term storage credits as
26 defined in section 45-802.01 may be assigned to the district's
27 replenishment reserve subaccount in lieu of paying the replenishment
28 reserve fee.

29 5. The district shall use replenishment reserve charges and
30 replenishment reserve fees collected within each active management area
31 together with all interest earned on the charges and fees to store water
32 in that active management area in advance of groundwater replenishment
33 obligations for the purpose of developing long-term storage credits as
34 defined in section 45-802.01 that shall be credited to the replenishment
35 reserve subaccount for that active management area as provided in section
36 45-859.01.

37 6. Beginning on January 1, 2030 or earlier, on approval of the
38 director of water resources pursuant to section 45-859.01, subsection K,
39 the district may transfer credits from a replenishment reserve subaccount
40 to a conservation district account as provided in section 45-859.01 to
41 satisfy its groundwater replenishment obligations.

42 7. If the district transfers credits from the replenishment reserve
43 subaccount for an active management area pursuant to section 45-859.01,
44 subsection E, the district shall include in the annual replenishment
45 assessment levied against all parcels of category 1 member land in that

1 active management area and, except as provided in section 48-3780.01,
 2 subsection B, in the annual replenishment tax levied against all municipal
 3 providers that have member service areas in that active management area a
 4 reserve replacement component to fund the replacement of the transferred
 5 credits. The district shall use all monies from the reserve replacement
 6 component collected within an active management area together with all
 7 interest earned on the monies to develop long-term storage credits as
 8 defined in section 45-802.01 within that active management area to be
 9 credited to the replenishment reserve subaccount for that active
 10 management area as provided in section 45-859.01.

11 8. For the purposes of establishing and maintaining the
 12 replenishment reserve, the district shall have access to excess central
 13 Arizona project water equivalent to but not more than the access the
 14 Arizona water banking authority has for the purposes specified in section
 15 45-2401, subsection H, paragraph 2.

16 F. Groundwater replenished by the district pursuant to a contract
 17 to replenish groundwater under subsection B, paragraph 9 of this section
 18 shall not be credited to a replenishment reserve subaccount established
 19 under section 45-859.01.

20 G. The district shall not enter into a contract authorized under
 21 subsection B, paragraph 9 of this section unless the district has
 22 determined that the contract will not adversely affect the district's
 23 ability to fulfill its obligations under this chapter. For each contract
 24 entered into under subsection B, paragraph 9 of this section, the district
 25 shall perform its contract replenishment obligations in the active
 26 management area in which the service area of the municipal provider that
 27 is the party to the contract is located.

28 H. If the district replenishes groundwater on behalf of a municipal
 29 provider pursuant to a contract to replenish groundwater under subsection
 30 B, paragraph 9 of this section, the amount of groundwater so replenished
 31 shall be a replenishment credit to the municipal provider that may be
 32 applied by the municipal provider on notice to the district to reduce the
 33 service area replenishment obligations applicable to the municipal
 34 provider.

35 I. In the Phoenix active management area, the district, to the
 36 extent reasonably feasible, shall replenish groundwater in the east
 37 portion of the active management area and in the west portion of the
 38 active management area in the approximate proportion that the groundwater
 39 replenishment obligation attributable in a particular year to member lands
 40 and member service areas located in the east portion of the active
 41 management area bears to the groundwater replenishment obligation
 42 attributable in that year to member lands and member service areas located
 43 in the west portion of the active management area. For the purposes of
 44 this subsection, the boundary between the east Salt river valley subbasin

1 and the west Salt river valley subbasin is the boundary between the east
2 and west portions of the active management area.

3 J. The costs and expenses charged by the district to an active
4 management area water district established under chapter 28 of this title
5 for delivery of surplus central Arizona project water to such active
6 management area water district for replenishment purposes shall not exceed
7 the costs and expenses for delivery of such water that are or would be
8 included by the district in the costs and expenses of replenishment for
9 member lands and member service areas within the active management area in
10 which such active management area water district is situated.