

House Engrossed Senate Bill

~~false claims, agriculture, technical correction~~
(now: groundwater replenishments; Pinal AMA)

State of Arizona
Senate
Fifty-seventh Legislature
First Regular Session
2025

SENATE BILL 1393

AN ACT

AMENDING SECTIONS 45-576 AND 48-3771, ARIZONA REVISED STATUTES; RELATING TO GROUNDWATER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-576, Arizona Revised Statutes, is amended to
3 read:

4 45-576. Certificate of assured water supply; designated
5 cities, towns and private water companies;
6 exemptions; definition

7 A. Except as provided in subsections G and J of this section, a
8 person who proposes to offer subdivided lands, as defined in section
9 32-2101, for sale or lease in an active management area shall apply for
10 and obtain a certificate of assured water supply from the director before
11 presenting the plat for approval to the city, town or county in which the
12 land is located, where such is required, and before filing with the state
13 real estate commissioner a notice of intention to offer such lands for
14 sale or lease, pursuant to section 32-2181, unless the subdivider has
15 obtained a written commitment of water service for the subdivision from a
16 city, town or private water company designated as having an assured water
17 supply pursuant to this section.

18 B. Except as provided in subsections G and J of this section, a
19 city, town or county may approve a subdivision plat only if the subdivider
20 has obtained a certificate of assured water supply from the director or
21 the subdivider has obtained a written commitment of water service for the
22 subdivision from a city, town or private water company designated as
23 having an assured water supply pursuant to this section. The city, town
24 or county shall note on the face of the approved plat that a certificate
25 of assured water supply has been submitted with the plat or that the
26 subdivider has obtained a written commitment of water service for the
27 proposed subdivision from a city, town or private water company designated
28 as having an assured water supply pursuant to this section.

29 C. Except as provided in subsections G and J of this section, the
30 state real estate commissioner may issue a public report authorizing the
31 sale or lease of subdivided lands only on compliance with either of the
32 following:

33 1. The subdivider, owner or agent has paid any activation fee
34 required under section 48-3772, subsection A, paragraph 7 and any
35 replenishment reserve fee required under section 48-3774.01, subsection A,
36 paragraph 2 and has obtained a certificate of assured water supply from
37 the director.

38 2. The subdivider has obtained a written commitment of water
39 service for the lands from a city, town or private water company
40 designated as having an assured water supply pursuant to this section and
41 the subdivider, owner or agent has paid any activation fee required under
42 section 48-3772, subsection A, paragraph 7.

1 D. The director shall designate private water companies in active
2 management areas that have an assured water supply. If a city or town
3 acquires a private water company that has contracted for central Arizona
4 project water, the city or town shall assume the private water company's
5 contract for central Arizona project water.

6 E. The director shall designate cities and towns in active
7 management areas where an assured water supply exists. If a city or town
8 has entered into a contract for central Arizona project water, the city or
9 town is deemed to continue to have an assured water supply until December
10 31, 1997. Commencing on January 1, 1998, the determination that the city
11 or town has an assured water supply is subject to review by the director
12 and the director may determine that a city or town does not have an
13 assured water supply.

14 F. The director shall notify the mayors of all cities and towns in
15 active management areas and the chairmen of the boards of supervisors of
16 counties in which active management areas are located of the cities, towns
17 and private water companies designated as having an assured water supply
18 and any modification of that designation within thirty days ~~OF~~ AFTER the
19 designation or modification. If the service area of the city, town or
20 private water company has qualified as a member service area pursuant to
21 title 48, chapter 22, article 4, the director shall also notify the
22 conservation district of the designation or modification and shall report
23 the projected average annual replenishment obligation for the member
24 service area based on the projected and committed average annual demand
25 for water within the service area during the effective term of the
26 designation or modification subject to any limitation in an agreement
27 between the conservation district and the city, town or private water
28 company. For each city, town or private water company that qualified as a
29 member service area under title 48, chapter 22 and THAT was designated as
30 having an assured water supply before January 1, 2004, the director shall
31 report to the conservation district on or before January 1, 2005 the
32 projected average annual replenishment obligation based on the projected
33 and committed average annual demand for water within the service area
34 during the effective term of the designation subject to any limitation in
35 an agreement between the conservation district and the city, town or
36 private water company. Persons proposing to offer subdivided lands served
37 by those designated cities, towns and private water companies for sale or
38 lease are exempt from applying for and obtaining a certificate of assured
39 water supply.

40 G. This section does not apply in the case of the sale of lands for
41 developments that are subject to a mineral extraction and METALLURGICAL
42 processing permit or an industrial use permit pursuant to sections 45-514
43 and 45-515.

1 H. The director shall adopt rules to carry out the purposes of this
2 section. ~~On or before January 1, 2008,~~ The rules shall provide for a
3 reduction in water demand for an application for a designation of assured
4 water supply or a certificate of assured water supply if a gray water
5 reuse system will be installed that meets the requirements of the rules
6 adopted by the department of environmental quality for gray water systems
7 and if the application is for a certificate of assured water supply, the
8 land for which the certificate is sought must qualify as a member land in
9 a conservation district pursuant to title 48, chapter 22, article 4. For
10 the purposes of this subsection, "gray water" has the same meaning
11 prescribed in section 49-201.

12 I. If the director designates a municipal provider as having an
13 assured water supply under this section and the designation lapses or
14 otherwise terminates while the municipal provider's service area is a
15 member service area of a conservation district, the municipal provider or
16 its successor shall continue to comply with the consistency with
17 management goal requirements in the rules adopted by the director under
18 subsection H of this section as if the designation was still in effect
19 with respect to the municipal provider's designation uses. When
20 determining compliance by the municipal provider or its successor with the
21 consistency with management goal requirements in the rules, the director
22 shall consider only water delivered by the municipal provider or its
23 successor to the municipal provider's designation uses. A person is the
24 successor of a municipal provider if the person commences water service to
25 uses that were previously designation uses of the municipal provider. Any
26 groundwater delivered by the municipal provider or its successor to the
27 municipal provider's designation uses in excess of the amount allowed
28 under the consistency with management goal requirements in the rules shall
29 be considered excess groundwater for purposes of title 48, chapter 22.
30 For the purposes of this subsection, "designation uses" means all water
31 uses served by a municipal provider on the date the municipal provider's
32 designation of assured water supply lapses or otherwise terminates and all
33 recorded lots within the municipal provider's service area that were not
34 being served by the municipal provider on that date but that received
35 final plat approval from a city, town or county on or before that date.
36 Designation uses do not include industrial uses served by an irrigation
37 district under section 45-497.

38 J. Subsections A, B and C of this section do not apply to a person
39 who proposes to offer subdivided land for sale or lease in an active
40 management area if all the following apply:

41 1. The director issued a certificate of assured water supply for
42 the land to a previous owner of the land and the certificate was
43 classified as a type A certificate under rules adopted by the director
44 pursuant to subsection H of this section.

1 2. The director has not revoked the certificate of assured water
2 supply described in paragraph 1 of this subsection, and proceedings to
3 revoke the certificate are not pending before the department or a court.
4 The department shall post on its website a list of all certificates of
5 assured water supply that have been revoked or for which proceedings are
6 pending before the department or a court.

7 3. The plat submitted to the department in the application for the
8 certificate of assured water supply described in paragraph 1 of this
9 subsection has not changed.

10 4. Water service is currently available to each lot within the
11 subdivided land and the water provider listed on the certificate of
12 assured water supply described in paragraph 1 of this subsection has not
13 changed.

14 5. The subdivided land qualifies as a member land under title 48,
15 chapter 22 and the subdivider has paid any activation fee required under
16 section 48-3772, subsection A, paragraph 7 and any replenishment reserve
17 fee required under section 48-3774.01, subsection A, paragraph 2.

18 6. The plat is submitted for approval to a city, town or county
19 that is listed on the department's website as a qualified platting
20 authority.

21 K. Subsection J of this section does not affect the assignment of a
22 certificate of assured water supply as prescribed by section 45-579.

23 L. On or before December 31, 2023, the director shall study and
24 submit to the governor, president of the senate and speaker of the house
25 of representatives a report on whether and how a person that seeks a
26 building permit for six or more residences within an active management
27 area, without regard to any proposed lease term for those residences,
28 should apply for and obtain a certificate of assured water supply from the
29 director before presenting the permit application for approval to the
30 county in which the land is located, unless the applicant has obtained a
31 written commitment of water service for the residences from a city, town
32 or private water company designated as having an assured water supply
33 pursuant to this section.

34 M. THE DIRECTOR OR A POLITICAL SUBDIVISION OF THIS STATE MAY NOT
35 REQUIRE OWNERS OF SUBDIVIDED LANDS TO PAY FOR OR PROVIDE A WATER SOURCE TO
36 REDUCE GROUNDWATER DEMANDS INCURRED OFF THE OWNER'S PARCEL AS A CONDITION
37 OF RECEIVING A CERTIFICATE OF ASSURED WATER SUPPLY OR A WRITTEN COMMITMENT
38 OF WATER SERVICE FROM A CITY, TOWN OR PRIVATE WATER COMPANY THAT HAS
39 OBTAINED A DESIGNATION OF ASSURED WATER SUPPLY THAT WAS ISSUED PURSUANT TO
40 SECTION 48-3771, SUBSECTION F.

41 ~~M.~~ N. For the purposes of this section, "assured water supply"
42 means all of the following:

43 1. Sufficient groundwater, surface water or effluent of adequate
44 quality will be continuously available to satisfy the water needs of the
45 proposed use for at least one hundred years. Beginning January 1 of the

1 calendar year following the year in which a groundwater replenishment
2 district is required to submit its preliminary plan pursuant to section
3 45-576.02, subsection A, paragraph 1, with respect to an applicant that is
4 a member of the district, "sufficient groundwater" for the purposes of
5 this paragraph means that the proposed groundwater withdrawals that the
6 applicant will cause over a period of one hundred years will be of
7 adequate quality and will not exceed, in combination with other
8 withdrawals from land in the replenishment district, a depth to water of
9 one thousand feet or the depth of the bottom of the aquifer, whichever is
10 less. In determining depth to water for the purposes of this paragraph,
11 the director shall consider the combination of:

12 (a) The existing rate of decline.
13 (b) The proposed withdrawals.

14 (c) The expected water requirements of all recorded lots that are
15 not yet served water and that are located in the service area of a
16 municipal provider.

17 2. The projected groundwater use is consistent with the management
18 plan and achievement of the management goal for the active management
19 area.

20 3. The financial capability has been demonstrated to construct the
21 water facilities necessary to make the supply of water available for the
22 proposed use, including a delivery system and any storage facilities or
23 treatment works. The director may accept evidence of the construction
24 assurances required by section 9-463.01, ~~11-823~~ 11-822 or 32-2181 to
25 satisfy this requirement.

26 Sec. 2. Section 48-3771, Arizona Revised Statutes, is amended to
27 read:

28 48-3771. District replenishment obligations; replenishment
29 location; source of replenishment; exception

30 A. For each active management area in which member lands or member
31 service areas are or may be located, the district shall replenish
32 groundwater in an amount equal to the groundwater replenishment obligation
33 for that active management area. Except as provided in section 48-3781,
34 subsection G, the district shall complete the replenishment of the
35 groundwater replenishment obligation of that active management area
36 applicable to a particular year within three full calendar years after the
37 year that the district incurs the groundwater replenishment obligation.
38 Replenishment of the groundwater replenishment obligation of an active
39 management area applicable to a particular year is complete when the
40 amount of water added to aquifers through water storage that has been
41 credited directly to the district's conservation district account pursuant
42 to title 45, chapter 3.1, plus long-term storage credits that have been
43 transferred from the district's long-term storage account to its
44 conservation district account pursuant to title 45, chapter 3.1, less the
45 groundwater replenishment obligation of member lands and member service

1 areas located in the active management area and applicable to previous
2 years, less the contract replenishment obligations relative to municipal
3 providers in the active management area for previous years and the year of
4 the calculation, equals or exceeds the groundwater replenishment
5 obligation of the active management area for that year.

6 B. With respect to the portion of the groundwater replenishment
7 obligation attributable to a parcel of member land or a member service
8 area, the district shall replenish groundwater in the active management
9 area where the parcel of member land or the member service area is located
10 in an amount equal to the groundwater replenishment obligation applicable
11 to that parcel of member land or that member service area.

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

16 D. Notwithstanding any other provision of this chapter, if a parcel
17 of member land is included in the service area of a municipal provider
18 that is not a member service area but that has been designated as having
19 an assured water supply under section 45-576, the parcel of member land
20 has no parcel replenishment obligation and the district has no groundwater
21 replenishment obligation attributable to that parcel of member land for as
22 long as the designation remains in effect.

23 E. Notwithstanding any other provision of this chapter and except
24 as provided in subsection F of this section, if a parcel of member land is
25 included in the service area of a municipal provider that is a member
26 service area and that has been designated as having an assured water
27 supply under section 45-576, the parcel of member land has no further
28 parcel replenishment obligation.

29 F. After September 14, 2024, a municipal provider that submits an
30 application for a new designation of assured water supply pursuant to
31 rules adopted by the department of water resources in the Phoenix **AND**
32 **PINAL** active management ~~area~~ **AREAS** that relies on a member service area
33 agreement may elect for all parcels of member land in the municipal
34 service area to retain a replenishment obligation. For parcels of member
35 land that retain a replenishment obligation, the district shall replenish
36 groundwater in an amount equal to the obligation applicable to that parcel
37 of member land.

38 G. If, pursuant to subsection F of this section, a municipal
39 provider's service area contains member lands and the municipal provider
40 applies to become designated as having an assured water supply, the
41 municipal provider shall notify the district and the director of the
42 department of water resources at the time of application whether it
43 chooses to assume the member lands' replenishment obligation under the
44 municipal provider's designation of assured water supply and member
45 service area agreement. This section does not authorize new member lands

1 to be enrolled within the municipal provider's service area after the
2 service area is designated as having an assured water supply.

3 H. If a municipal provider chooses to allow parcels of member land
4 within its service area to retain the parcel replenishment obligation
5 pursuant to this section, the designation of assured water supply and
6 member service area agreement for the municipal provider shall provide
7 that the parcels of member land retain the parcel replenishment obligation
8 for the lesser of either of the following:

9 1. Ten years from the date of commencement of the first term of the
10 designation.

11 2. The first term of the designation.

12 I. On the lesser of the conditions prescribed by subsection H of
13 this section, the municipal provider shall begin to assume a percentage of
14 the groundwater delivered to parcels of member land and any associated
15 parcel replenishment obligation and provide the information to the
16 district in the annual reports required by section 48-3775. In the first
17 year of reporting pursuant to this subsection, the municipal provider may
18 assume not less than ten percent of the total reported groundwater
19 delivered to each parcel of member land. In each successive year the
20 municipal provider shall assume at least an additional ten percent so that
21 within ten years, all reported groundwater delivered and parcel
22 replenishment obligation are assumed by the municipal provider and the
23 parcels of member land have no further parcel replenishment obligation.

24 J. After a municipal provider assumes all groundwater deliveries
25 from all parcels of member land as prescribed by subsection I of this
26 section, the municipal provider shall cease submitting reports to the
27 district for parcels of member land pursuant to section 48-3775 while the
28 municipal provider's designation of assured water supply remains valid.

29 K. If a municipal provider assumes the parcel replenishment
30 obligation of member lands pursuant to a designation of assured water
31 supply that relies on a member service area agreement, any groundwater
32 allowance or extinguishment credits, as provided in rules adopted by the
33 department of water resources pursuant to section 45-576, associated with
34 the member lands assumed by the municipal provider may be used as follows:

35 1. If the parcel replenishment obligation and reported groundwater
36 delivered to the member lands are entirely assumed on the initial
37 designation of an assured water supply, the remaining extinguishment
38 credits or groundwater allowance associated with the member lands may be
39 used by the municipal provider as authorized pursuant to a member service
40 area agreement.

41 2. If the parcel replenishment obligation and reported groundwater
42 delivered to the member lands are assumed in stages as provided in
43 subsection I of this section, the municipal provider may use the
44 groundwater allowance and extinguishment credits for the member lands in
45 the same manner as authorized in the applicable agreement and notice of

1 municipal reporting requirements if the groundwater is being reported as
2 delivered to member lands. Thereafter, any remaining extinguishment
3 credits or groundwater allowance may be used by the municipal provider as
4 authorized under the member service area agreement.

5 L. FOR A DESIGNATION FOR A MUNICIPAL PROVIDER ISSUED PURSUANT TO
6 SUBSECTION F OF THIS SECTION, OWNERS OF LANDS THAT ARE SUBDIVIDED AFTER
7 THE DATE OF DESIGNATION MAY NOT BE REQUIRED TO PROVIDE OR PAY FOR A WATER
8 SOURCE TO REDUCE A REPLENISHMENT OBLIGATION THE MUNICIPAL PROVIDER INCURS
9 FOR LANDS OTHER THAN THE OWNER'S SUBDIVIDED LAND.