

House Engrossed

irrigation non-expansion areas; withdrawal; maximum

State of Arizona
House of Representatives
Fifty-seventh Legislature
Second Regular Session
2026

HOUSE BILL 2097

AN ACT

AMENDING SECTION 45-437, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 2, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-437.04; RELATING TO IRRIGATION NON-EXPANSION AREAS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-437, Arizona Revised Statutes, is amended to
3 read:

4 45-437. Irrigated acreage; limit on groundwater withdrawal;
5 water measuring device; annual report of
6 groundwater pumping; penalty; transportation;
7 exemption

8 A. In an initial irrigation non-expansion area established pursuant
9 to section 45-431, except as provided in subsection ~~F~~ of this section
10 AND SECTION 45-437.04, only acres of land ~~which~~ THAT were legally
11 irrigated at any time between January 1, 1975 and January 1, 1980 may be
12 irrigated with groundwater, effluent, diffused water on the surface or
13 surface water, except as provided in sections 45-172, 45-437.01, 45-437.02
14 and 45-437.03, and except that this does not prohibit irrigation with
15 surface water used pursuant to decreed or appropriative rights established
16 before June 12, 1980. FOR ACRES OF LAND THAT ARE LEGALLY IRRIGATED WITH
17 GROUNDWATER FROM A NON-EXEMPT WELL, A PERSON MAY NOT WITHDRAW MORE THAN
18 SIX ACRE-FEET OF GROUNDWATER PER ACRE OF LEGALLY IRRIGATED LAND IN ANY ONE
19 CALENDAR YEAR. THE DIRECTOR MAY ASSESS AND COLLECT A PENALTY OF \$150 FROM
20 ANY PERSON THAT WITHDRAWS MORE THAN SIX ACRE-FEET OF GROUNDWATER PER ACRE
21 OF LEGALLY IRRIGATED LAND FROM A NON-EXEMPT WELL IN ANY CALENDAR
22 YEAR. Land ~~which~~ THAT was not irrigated at any time from January 1, 1975
23 through January 1, 1980 is deemed to have been in irrigation if the
24 director finds that substantial capital investment has been made in the
25 twelve months before June 12, 1980 for the improvement of the land and
26 on-site irrigation distribution facilities, including the drilling of
27 wells, for an irrigation use. This subsection does not allow irrigation
28 of land ~~which~~ THAT could not have been legally irrigated under prior
29 statutory law.

30 B. In a subsequent irrigation non-expansion area ~~established~~
31 ~~pursuant to section 45-432~~, except as provided in subsection ~~F~~ of this
32 section, only acres of land ~~which~~ THAT were irrigated WITH GROUNDWATER at
33 any time during the five years preceding the date of the notice of the
34 initiation of designation procedures may be irrigated with
35 groundwater, ~~effluent, diffused water on the surface or surface water,~~
36 ~~except as provided in sections 45-172, 45-437.01, 45-437.02 and 45-437.03,~~
37 ~~and except that this does not prohibit irrigation with surface water used~~
38 ~~pursuant to decreed or appropriative rights established before the date of~~
39 ~~the notice~~. FOR ACRES OF LAND THAT ARE LEGALLY IRRIGATED WITH GROUNDWATER
40 FROM A NON-EXEMPT WELL, A PERSON MAY NOT WITHDRAW MORE THAN SIX ACRE-FEET
41 OF GROUNDWATER PER ACRE OF LEGALLY IRRIGATED LAND IN ANY ONE CALENDAR
42 YEAR. THE DIRECTOR MAY ASSESS AND COLLECT A PENALTY OF \$150 FROM ANY
43 PERSON THAT WITHDRAWS MORE THAN SIX ACRE-FEET OF GROUNDWATER PER ACRE OF
44 LEGALLY IRRIGATED LAND FROM A NON-EXEMPT WELL IN ANY CALENDAR YEAR. Land
45 ~~which~~ THAT was not irrigated at any time during this ~~five year~~ FIVE-YEAR

1 period is deemed to have been in irrigation if the director finds that
2 substantial capital investment has been made for the subjugation of such
3 land for an irrigation use including on-site irrigation distribution
4 facilities and a well or wells the drilling and construction of ~~which~~ THAT
5 were substantially commenced before the date of the notice of the
6 initiation of designation procedures.

7 C. Except as provided in subsection ~~F~~ G of this section, in an
8 INITIAL irrigation non-expansion area:

9 1. Each person withdrawing groundwater from a non-exempt well for
10 an irrigation use and each person withdrawing more than ten acre-feet of
11 groundwater per year from a non-exempt well for a non-irrigation use shall
12 use a water measuring device approved by the director. Each person
13 withdrawing groundwater from a non-exempt well shall file a report on a
14 calendar year basis with the director on a form provided by the director
15 ~~no~~ NOT later than March 31 of the following year. In filing a report,
16 each person withdrawing ten or fewer acre-feet of groundwater per year
17 from a non-exempt well for a non-irrigation use shall estimate the
18 quantity of groundwater withdrawn.

19 2. Transportations of groundwater are subject to the provisions of
20 articles 8 and 8.1 of this chapter.

21 D. EXCEPT AS PROVIDED IN SUBSECTION H OF THIS SECTION, IN A
22 SUBSEQUENT IRRIGATION NON-EXPANSION AREA, EACH PERSON WITHDRAWING
23 GROUNDWATER FROM A NON-EXEMPT WELL FOR AN IRRIGATION USE AND EACH PERSON
24 WITHDRAWING MORE THAN TEN ACRE-FEET OF GROUNDWATER PER YEAR FROM A
25 NON-EXEMPT WELL FOR A NON-IRRIGATION USE SHALL USE A WATER MEASURING
26 DEVICE APPROVED BY THE DIRECTOR. EACH PERSON WITHDRAWING GROUNDWATER FROM
27 A NON-EXEMPT WELL SHALL FILE A REPORT ON A CALENDAR YEAR BASIS WITH THE
28 DIRECTOR ON A FORM PROVIDED BY THE DIRECTOR NOT LATER THAN MARCH 31 OF THE
29 FOLLOWING YEAR. IN FILING A REPORT, IF A PERSON WITHDRAWS TEN OR FEWER
30 ACRE-FEET OF GROUNDWATER PER YEAR FROM A NON-EXEMPT WELL, THE PERSON MAY
31 PROVIDE AN ESTIMATE OF THE PERSON'S WITHDRAWALS.

32 ~~D.~~ E. If a person, who is required under subsection C, paragraph 1
33 OR SUBSECTION D of this section to file an annual report for calendar year
34 1986 or any subsequent calendar year, fails to file a report for the
35 calendar year in question on or before March 31 of the following year, the
36 director may assess and collect a penalty of ~~twenty-five dollars~~ \$25 for
37 each month or portion of a month that the annual report is
38 delinquent. The total penalty assessed under this subsection shall not
39 exceed ~~one hundred fifty dollars~~ \$125. The director shall deposit,
40 pursuant to sections 35-146 and 35-147, all penalties collected under this
41 subsection in the state general fund.

42 ~~E.~~ F. In an irrigation non-expansion area, a correctional facility
43 under the jurisdiction of the state department of corrections may irrigate
44 with groundwater, effluent, diffused water on the surface or surface water
45 up to a total of ten acres of land that otherwise may not be irrigated

1 pursuant to subsection A or B of this section if the irrigation is for the
2 purpose of producing plants or parts of plants for consumption by inmates
3 at the correctional facility as part of a prisoner work program and if the
4 correctional facility notifies the director of water resources in writing
5 of the location of the acres of land to be irrigated ~~prior to~~ BEFORE their
6 irrigation. The actual number of acres of land that a correctional
7 facility may irrigate pursuant to this subsection shall be calculated by
8 subtracting the number of acres of land the correctional facility may
9 already irrigate under subsection A or B of this section from ten. A
10 CORRECTIONAL FACILITY THAT IRRIGATES ACRES OF LAND WITH GROUNDWATER
11 PURSUANT TO THIS SUBSECTION IS EXEMPT FROM THE SIX ACRE-FEET OF
12 GROUNDWATER PER ACRE OF LEGALLY IRRIGATED LAND LIMIT AS PRESCRIBED IN
13 SUBSECTIONS A AND B OF THIS SECTION.

14 ~~F.~~ G. IN AN INITIAL IRRIGATION NON-EXPANSION AREA, a person ~~who~~
15 ~~withdraws~~ WITHDRAWING groundwater from a non-exempt well for an irrigation
16 use is exempt from subsection C, paragraph 1 of this section for those
17 withdrawals if both of the following apply:

18 1. Groundwater withdrawn from the well for an irrigation use is
19 used only on land that is owned by a person who has the right under
20 subsection A or B of this section to irrigate ten or fewer contiguous
21 acres of land at the place of the use.

22 2. Groundwater withdrawn from the well is not used on land that is
23 part of an integrated farming operation.

24 H. IN A SUBSEQUENT IRRIGATION NON-EXPANSION AREA, A PERSON
25 WITHDRAWING GROUNDWATER FROM A NON-EXEMPT WELL FOR AN IRRIGATION USE IS
26 EXEMPT FROM THE MEASURING AND REPORTING REQUIREMENTS PRESCRIBED IN
27 SUBSECTION D OF THIS SECTION FOR THOSE WITHDRAWALS IF ALL OF THE FOLLOWING
28 APPLY:

29 1. GROUNDWATER WITHDRAWN FROM THE WELL FOR AN IRRIGATION USE IS
30 USED ONLY ON LAND THAT IS OWNED BY A PERSON THAT HAS THE RIGHT UNDER
31 SUBSECTION A OR B OF THIS SECTION TO IRRIGATE TEN OR FEWER CONTIGUOUS
32 ACRES OF LAND AT THE PLACE OF THE USE.

33 2. GROUNDWATER WITHDRAWN FROM THE WELL IS NOT USED ON LAND THAT IS
34 PART OF AN INTEGRATED FARMING OPERATION.

35 3. THE PERSON WITHDRAWS TWO AND ONE-HALF OR FEWER ACRE-FEET OF
36 GROUNDWATER PER ACRE OF LAND THAT THE PERSON IRRIGATES IN THE CALENDAR
37 YEAR.

38 4. NOT LATER THAN MARCH 31, THE PERSON PROVIDES AN ESTIMATE OF THE
39 QUANTITY OF GROUNDWATER WITHDRAWN IN THE PREVIOUS CALENDAR YEAR AND FILES
40 A REPORT ON A FORM PROVIDED BY THE DIRECTOR.

1 Sec. 2. Title 45, chapter 2, article 3, Arizona Revised Statutes,
2 is amended by adding section 45-437.04, to read:

3 45-437.04. Substitution of acres; new wells and replacement
4 wells in new locations; net increase in
5 withdrawals disallowed

6 A. IN A SUBSEQUENT IRRIGATION NON-EXPANSION AREA, A PERSON THAT
7 OWNS ACRES OF LAND THAT MAY BE LEGALLY IRRIGATED PURSUANT TO SECTION
8 45-437 MAY:

9 1. PERMANENTLY RETIRE THOSE ACRES FROM IRRIGATION AND SUBSTITUTE
10 FOR THOSE ACRES THE SAME NUMBER OF ACRES IN THE SAME IRRIGATION
11 NON-EXPANSION AREA IF THE PERSON DEMONSTRATES TO THE DIRECTOR'S
12 SATISFACTION THAT THE SUBSTITUTION OF ACRES WILL NOT LEAD TO A NET
13 INCREASE IN GROUNDWATER WITHDRAWALS IN THE IRRIGATION NON-EXPANSION AREA.

14 2. CONSTRUCT A NEW NON-EXEMPT WELL FOR AN IRRIGATION USE OR A
15 REPLACEMENT NON-EXEMPT WELL IN A NEW LOCATION FOR AN IRRIGATION USE IN THE
16 SAME IRRIGATION NON-EXPANSION AREA IF BOTH OF THE FOLLOWING APPLY:

17 (a) THE LOCATION OF THE NEW NON-EXEMPT WELL OR THE REPLACEMENT
18 NON-EXEMPT WELL COMPLIES WITH THE RULES ADOPTED BY THE DIRECTOR PURSUANT
19 TO SECTION 45-598.

20 (b) THE CONSTRUCTION OF THE NEW NON-EXEMPT WELL OR REPLACEMENT
21 NON-EXEMPT WELL IN A NEW LOCATION WILL NOT LEAD TO A NET INCREASE IN
22 GROUNDWATER WITHDRAWALS IN THE IRRIGATION NON-EXPANSION AREA.

23 B. TO PREVENT UNREASONABLY INCREASING DAMAGE TO SURROUNDING LAND OR
24 OTHER WATER USERS FROM THE CONCENTRATION OF NON-EXEMPT WELLS IN SUBSEQUENT
25 IRRIGATION NON-EXPANSION AREAS, THE RULES THE DIRECTOR ADOPTS PURSUANT TO
26 SECTION 45-598 GOVERNING THE LOCATION OF NEW WELLS AND REPLACEMENT WELLS
27 IN NEW LOCATIONS IN ACTIVE MANAGEMENT AREAS SHALL APPLY TO NEW NON-EXEMPT
28 WELLS AND REPLACEMENT NON-EXEMPT WELLS IN NEW LOCATIONS IN SUBSEQUENT
29 IRRIGATION NON-EXPANSION AREAS IF THE NEW NON-EXEMPT WELLS OR THE
30 REPLACEMENT NON-EXEMPT WELLS IN NEW LOCATIONS ARE FOR AN IRRIGATION USE.