

REFERENCE TITLE: watershed health; use; survey

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

HB 2516

Introduced by
Representatives Stahl Hamilton: Garcia, Gutierrez, Sandoval, Simacek,
Travers, Villegas; Senators Gabaldón, Ortiz

AN ACT

AMENDING SECTIONS 45-101, 45-105, 45-151, 45-152.01 AND 45-172, ARIZONA
REVISED STATUTES; RELATING TO WATER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-101, Arizona Revised Statutes, is amended to
3 read:

4 45-101. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Appropriator" means the person or persons initiating or
7 perfecting the right to use appropriable water based on state law, or the
8 person's successor or successors in interest.

9 2. "Department" means the department of water resources.

10 3. "Director" means the director of water resources, who is also
11 the director of the department.

12 4. "Effluent" means water that has been collected in a sanitary
13 sewer for subsequent treatment in a facility that is regulated pursuant to
14 title 49, chapter 2. Such water remains effluent until it acquires the
15 characteristics of groundwater or surface water.

16 5. "Groundwater":

17 (a) Means water under the surface of the earth regardless of the
18 geologic structure in which ~~it~~ **THE WATER** is standing or
19 moving. ~~Groundwater~~

20 (b) Does not include water flowing in underground streams with
21 ascertainable beds and banks.

22 6. "Interstate stream" means any stream constituting or flowing
23 along the exterior boundaries of this state, ~~and~~ and any tributary
24 originating in another state or foreign country and flowing into or
25 through this state.

26 7. "Riparian area":

27 (a) Means a geographically delineated area with distinct resource
28 values, ~~that~~ that is characterized by deep-rooted plant species that depend on
29 having roots in the water table or its capillary zone and that occurs
30 within or adjacent to a natural perennial or intermittent stream channel
31 or within or adjacent to a lake, pond or marsh bed maintained primarily by
32 natural water sources. ~~Riparian area~~

33 (b) Does not include areas in or adjacent to ephemeral stream
34 channels, artificially created stockponds, man-made storage reservoirs
35 constructed primarily for conservation or regulatory storage, municipal
36 and industrial ponds or man-made water transportation, distribution, off-
37 stream storage and collection systems.

38 8. "Sanitary sewer" means any pipe or other enclosed conduit that
39 carries, among other substances, any water-carried wastes from the human
40 body from residences, commercial buildings, industrial plants or
41 institutions.

42 9. "Surface water" means the waters of all sources, flowing in
43 streams, canyons, ravines or other natural channels, or in definite
44 underground channels, whether perennial or intermittent, floodwater,
45 wastewater or surplus water, and of lakes, ponds and springs on the

1 surface. For the purposes of administering this title, surface water is
2 deemed to include central Arizona project water.

3 10. "WATERSHED HEALTH USES" MEANS WATER THAT IS CONSERVED IN A
4 NATURAL WATERCOURSE AND NOT OTHERWISE USED AND THAT SUPPORTS THE
5 ATTRIBUTES OF WATERSHED HEALTH FOR AN INDIVIDUAL WATERSHED AS PRESCRIBED
6 IN THE REPORT REQUIRED BY SECTION 45-105, SUBSECTION B, PARAGRAPH 15.

7 Sec. 2. Section 45-105, Arizona Revised Statutes, is amended to
8 read:

9 45-105. Powers and duties of director

10 A. The director may:

11 1. Formulate plans and develop programs for the practical and
12 economical development, management, conservation and use of surface water,
13 groundwater and the watersheds in this state, including the management of
14 water quantity and quality.

15 2. Investigate works, plans or proposals pertaining to surface
16 water and groundwater, including management of watersheds, and acquire,
17 preserve, publish and disseminate related information the director deems
18 advisable.

19 3. Collect and investigate information on and prepare and devise
20 means and plans for the development, conservation and use of all
21 waterways, watersheds, surface water, groundwater and groundwater basins
22 in this state and of all related matters and subjects, including
23 irrigation, drainage, water quality maintenance, regulation of flow,
24 diversion of running streams adapted for development in cooperating with
25 the United States or by this state independently, flood control, use of
26 water power, prevention of soil waste and storage, conservation and
27 development of water for every useful purpose.

28 4. Measure, survey and investigate the water resources of this
29 state and their potential development and cooperate and contract with
30 agencies of the United States for such purposes.

31 5. Acquire, hold and dispose of property, including land,
32 rights-of-way, water and water rights, as necessary or convenient for the
33 performance of the groundwater and water quality management functions of
34 the department.

35 6. Acquire, other than by condemnation, construct, improve,
36 maintain and operate early warning systems for flood control purposes and
37 works for the recovery, storage, treatment and delivery of water.

38 7. Accept grants, gifts or donations of money or other property
39 from any source, which may be used for any purpose consistent with this
40 title. All property acquired by the director is public property and is
41 subject to the same tax exemptions, rights and privileges granted to
42 municipalities, public agencies and other public entities.

43 8. Enter into an interagency contract or agreement with any public
44 agency pursuant to title 11, chapter 7, article 3 and contract, act

1 jointly or cooperate with any person to carry out the purposes of this
2 title.

3 9. Prosecute and defend all rights, claims and privileges of this
4 state respecting interstate streams.

5 10. Initiate and participate in conferences, conventions or
6 hearings, including congressional hearings, court hearings or hearings of
7 other competent judicial or quasi-judicial departments, agencies or
8 organizations, and negotiate and cooperate with agencies of the United
9 States or of any state or government and represent this state concerning
10 matters within the department's jurisdiction.

11 11. Apply for and hold permits and licenses from the United States
12 or any agency of the United States for reservoirs, dam sites and
13 rights-of-way.

14 12. Receive and review all reports, proposed contracts and
15 agreements from and with the United States or any agencies, other states
16 or governments or their representatives and recommend to the governor and
17 the legislature action to be taken on such reports, proposed contracts and
18 agreements. The director shall take action on such reports, if authorized
19 by law, and review and coordinate the preparation of formal comments of
20 this state on both the preliminary and final reports relating to water
21 resource development of the United States army corps of engineers, the
22 United States secretary of the interior and the United States secretary of
23 agriculture, as provided for in the flood control act of 1944 (58 Stat.
24 887; 33 United States Code section 701-1).

25 13. Contract with any person for imported water or for the
26 acquisition of water rights or rights to withdraw, divert or use surface
27 water or groundwater as necessary for the performance of the groundwater
28 management functions of the director prescribed by chapter 2 of this
29 title. If water becomes available under any contract executed under this
30 paragraph, the director may contract with any person for its delivery or
31 exchange for any other water available.

32 14. Recommend to the administrative heads of agencies, boards and
33 commissions of this state, and political subdivisions of this state, rules
34 to promote and protect the rights and interests of this state and its
35 inhabitants in any matter relating to the surface water and groundwater in
36 this state.

37 15. Conduct feasibility studies and remedial investigations
38 relating to groundwater quality and enter into contracts and cooperative
39 agreements under section 104 of the comprehensive environmental response,
40 compensation, and liability act of 1980 (P.L. 96-510) to conduct such
41 studies and investigations.

42 16. Dispose informally by stipulation, agreed settlement, consent
43 order or alternative means of dispute resolution, including arbitration,
44 if the parties and director agree, or by default of any case in which a
45 hearing before the director is required or allowed by law.

1 17. Cooperate and coordinate with the appropriate governmental
2 entities in Mexico regarding water planning in areas near the border
3 between Mexico and Arizona and for the exchange of relevant hydrological
4 information.

5 B. The director shall:

6 1. Exercise and perform all powers and duties vested in or imposed
7 on the department and adopt and issue rules necessary to carry out the
8 purposes of this title.

9 2. Administer all laws relating to groundwater, as provided in this
10 title.

11 3. Be responsible for the supervision and control of reservoirs and
12 dams of this state and, when deemed necessary, conduct investigations to
13 determine whether the existing or anticipated condition of any dam or
14 reservoir in this state is or may become a menace to life and property.

15 4. Coordinate and confer with and may contract with:

16 (a) The Arizona power authority, the game and fish commission, the
17 state land department, the Arizona outdoor recreation coordinating
18 commission, the Arizona commerce authority, the department of health
19 services, active management area water authorities or districts and
20 political subdivisions of this state with respect to matters within their
21 jurisdiction relating to surface water and groundwater and the development
22 of state water plans.

23 (b) The department of environmental quality with respect to title
24 49, chapter 2 for its assistance in the development of state water plans.

25 (c) The department of environmental quality regarding water plans,
26 water resource planning, water management, wells, water rights and
27 permits, and other appropriate provisions of this title pertaining to
28 remedial investigations, feasibility studies, site prioritization,
29 selection of remedies and implementation of the water quality assurance
30 revolving fund program pursuant to title 49, chapter 2, article 5.

31 (d) The department of environmental quality regarding coordination
32 of databases that are necessary for activities conducted pursuant to title
33 49, chapter 2, article 5.

34 5. Cooperate with the Arizona power authority in the performance of
35 the duties and functions of the authority.

36 6. Maintain a permanent public depository for existing and future
37 records of stream flow, groundwater levels and water quality and other
38 data relating to surface water and groundwater.

39 7. Maintain a public docket of all matters before the department
40 that may be subject to judicial review pursuant to this title.

41 8. Investigate and take appropriate action on any complaints
42 alleging withdrawals, diversions, impoundments or uses of surface water or
43 groundwater that may violate this title or the rules adopted pursuant to
44 this title.

1 9. Adopt an official seal for the authentication of records,
2 orders, rules and other official documents and actions.

3 10. Provide staff support to the Arizona water protection fund
4 commission established by chapter 12 of this title.

5 11. Exercise and perform all powers and duties invested in the
6 chairperson of the Arizona water banking authority commission as
7 prescribed by chapter 14 of this title.

8 12. Provide staff support to the Arizona water banking authority
9 established by chapter 14 of this title.

10 13. In the year following each regular general election, present
11 information to the committees with jurisdiction over water issues in the
12 house of representatives and the senate. A written report is not required
13 but the presentation shall include information concerning the following:

14 (a) The current status of the water supply in this state and any
15 likely changes in that status.

16 (b) Issues of regional and local drought effects, short-term and
17 long-term drought management efforts and the adequacy of drought
18 preparation throughout the state.

19 (c) The status of current water conservation programs in this
20 state.

21 (d) The current state of each active management area and the level
22 of progress toward management goals in each active management area.

23 (e) Issues affecting management of the Colorado river and the
24 reliability of this state's two million eight hundred thousand acre-foot
25 allocation of Colorado river water, including the status of water supplies
26 in and issues related to the Colorado river basin states and Mexico.

27 (f) The status of any pending or likely litigation regarding
28 surface water adjudications or other water-related litigation and the
29 potential impacts on this state's water supplies.

30 (g) The status of Indian water rights settlements and related
31 negotiations that affect this state.

32 (h) Other matters related to the reliability of this state's water
33 supplies, the responsibilities of the department and the adequacy of the
34 department's and other entities' resources to meet this state's water
35 management needs.

36 14. ~~Not later than December 1, 2023 and~~ On or before December 1 of
37 each year ~~thereafter~~, prepare and issue a water supply and demand
38 assessment for at least six of the fifty-one groundwater basins
39 established pursuant to section 45-403. The director shall ensure that a
40 water supply and demand assessment is completed for all groundwater basins
41 and initial active management areas at least once every five years. The
42 director may contract with outside entities to perform some or all of the
43 assessments and those outside entities shall be identified in the
44 assessment.

15. ON OR BEFORE DECEMBER 31 EVERY THREE YEARS AFTER THE INITIAL PRELIMINARY SURVEY, ISSUE A REPORT THAT INCLUDES AN ASSESSMENT OF THE OVERALL HEALTH OF EACH WATERSHED IN THIS STATE. ANY AGENCY OR POLITICAL SUBDIVISION OF THIS STATE THAT HAS INFORMATION RELEVANT TO DEVELOPING THE SURVEY AND REPORT PRESCRIBED BY THIS PARAGRAPH, INCLUDING THE DETERMINATIONS, ASSESSMENTS AND RECOMMENDATIONS PRESCRIBED BY THIS PARAGRAPH, SHALL COOPERATE WITH THE DIRECTOR AND SHALL TIMELY PROVIDE INFORMATION REQUESTED BY THE DIRECTOR. THE ASSESSMENT OF THE OVERALL HEALTH OF EACH WATERSHED IN THIS STATE SHALL BE BASED ON AN EVALUATION OF THE FOLLOWING ATTRIBUTES OF THE WATERSHED:

- (a) HYDROLOGY.
- (b) LANDSCAPE CONDITION.
- (c) HABITAT CONDITION.
- (d) GEOMORPHOLOGY.
- (e) WATER QUALITY.
- (f) BIOLOGICAL CONDITION, INCLUDING THE BIODIVERSITY OF PLANTS, ANIMALS AND AQUATIC SPECIES.
- (g) THREATS TO OR VULNERABILITIES OF THE WATERSHED THAT IMPACT THE ATTRIBUTES PRESCRIBED BY THIS PARAGRAPH.

Sec. 3. Section 45-151, Arizona Revised Statutes, is amended to read:

45-151. Right of appropriation; permitted uses; water rights in stockponds

A. Any person, ~~the THIS state of Arizona~~ or a political subdivision ~~thereof~~ OF THIS STATE may appropriate unappropriated water for domestic, municipal, irrigation, stock watering, water power, recreation, wildlife, including fish, nonrecoverable water storage pursuant to section 45-833.01, ~~or~~ mining OR WATERSHED HEALTH uses, for ~~his~~ personal use or for delivery to consumers. The person, ~~the THIS state of Arizona~~ or a political subdivision ~~thereof~~ OF THIS STATE first appropriating the water shall have the better right.

B. To effect the beneficial use, the person, ~~the THIS state of Arizona~~ or a political subdivision ~~thereof~~ OF THIS STATE appropriating the water may construct and maintain reservoirs, storage facilities pursuant to chapter 3.1 of this title, dams, canals, ditches, flumes and other necessary waterways.

C. A water right in a stockpond, certified pursuant to article 10 of this chapter, shall be recognized as if such water had been appropriated pursuant to this article.

Sec. 4. Section 45-152.01, Arizona Revised Statutes, is amended to read:

45-152.01. Instream flow applications; process; definition

A. In addition to the information prescribed in section 45-152, any person, including the United States, this state or a municipality, who

1 files an instream flow application after ~~the effective date of this~~
2 ~~section~~ AUGUST 2, 2012 shall comply with the following:

3 1. The applicant shall submit at least five years of streamflow
4 measurement data to support the proposed beneficial use, which shall be
5 submitted at the time the application is filed. The director shall not
6 accept for filing an instream flow application that is not accompanied by
7 at least five years of continuous streamflow measurement data. The
8 streamflow data submitted shall consist of gauged on-site measurements of
9 available water flow from the area in which the claimed beneficial use
10 occurs.

11 2. The instream flow application shall describe the proposed
12 beneficial use and shall specify both of the following:

13 (a) The amount of streamflow required for the proposed beneficial
14 use.

15 (b) The availability of the requested flows during claimed periods
16 of beneficial use.

17 B. Applications that are submitted after ~~the effective date of this~~
18 ~~section~~ AUGUST 2, 2012 shall be rejected if the application does not
19 comply with this section.

20 C. THIS SECTION DOES NOT APPLY TO APPLICATIONS FOR A PERMIT TO MAKE
21 AN APPROPRIATION OF WATER UNDER SECTION 45-152 FOR WATERSHED HEALTH USES.

22 ~~C.~~ D. For the purposes of this section, "instream flow
23 application" means an application for a permit to make an appropriation of
24 water for purposes of recreation or wildlife, including fish, in a
25 specific stream reach without diverting the water from the stream.

26 Sec. 5. Section 45-172, Arizona Revised Statutes, is amended to
27 read:

28 45-172. Transfer of water rights; application; limitations;
29 required consent

30 A. A water right may be severed from the land to which it is
31 appurtenant or from the site of its use if for other than irrigation
32 purposes and with the consent and approval of the owner of such right may
33 be transferred for use for irrigation of agricultural lands or for
34 municipal, WATERSHED HEALTH, stock watering, power and mining purposes and
35 to ~~the~~ THIS state or its political subdivisions for use for recreation and
36 wildlife purposes, including fish, without losing priority theretofore
37 established, subject to the following limitations and conditions:

38 1. Except as otherwise provided in this section, no such severance
39 or transfer shall be made unless approved by the director, and the
40 approval of the director shall prescribe the conditions of the approval.

41 2. Vested or existing rights to the use of water shall not be
42 affected, infringed ~~upon nor~~ ON OR interfered with, and ~~in no event shall~~
43 the water diverted or used after the transfer of such rights SHALL NOT
44 exceed the vested rights existing at the time of such severance and

1 transfer, and the director shall by order so define and limit the amount
2 of water to be diverted or used annually subsequent to such transfer.

3 3. The water rights sought to be transferred shall have been
4 lawfully perfected under the laws of the territory or ~~the~~ THIS state ~~of~~
5 ~~Arizona~~ and shall not have thereafter been forfeited or abandoned.

6 4. ~~No such~~ A severance or transfer of water rights shall NOT be
7 permitted or allowed from lands within the exterior boundaries of any
8 irrigation district, agricultural improvement district or water users'
9 association without first having obtained the written consent and approval
10 of such irrigation district, agricultural improvement district or water
11 users' association.

12 5. ~~No~~ A right to the use of water on or from any watershed or
13 drainage area ~~which~~ THAT supplies or contributes water for the irrigation
14 of lands within an irrigation district, agricultural improvement district
15 or water users' association shall NOT be severed or transferred without
16 the consent of the governing body of such irrigation district,
17 agricultural improvement district or water users' association. All
18 proposed applications for the severance and transfer of a right to use
19 water of or from any watershed or drainage area ~~which~~ THAT supplies or
20 contributes water for the irrigation of lands within any irrigation
21 district, agricultural improvement district or water users' association
22 shall be submitted to the governing body of such irrigation district,
23 agricultural improvement district or water users' association ~~prior to~~
24 BEFORE the filing of such application with the director. Within
25 forty-five days after the receipt of the application, such governing body
26 shall reject or approve the proposed application. Failure of such
27 governing body to approve or reject the proposed application within forty-
28 five days after receipt shall constitute approval of the proposed
29 application by such governing body. ~~No~~ AN application for the severance
30 or transfer of a right to the use of water of or from any watershed or
31 drainage area ~~which~~ THAT supplies or contributes water for the irrigation
32 of lands within any irrigation district, agricultural improvement district
33 or water users' association shall NOT be accepted for filing by the
34 director unless accompanied by the written consent of the governing body
35 of such irrigation district, agricultural improvement district or water
36 users' association to the proposed application or by satisfactory evidence
37 that such governing body failed to either accept or reject the proposed
38 application within forty-five days after receipt by such governing body.

39 6. A severance and transfer of an irrigation water right
40 appurtenant to lands within the boundaries of an irrigation district to
41 other lands within the boundaries of the same irrigation district for
42 agricultural use may be accomplished by the exclusion of lands to which a
43 water right is appurtenant from within the boundaries of an irrigation
44 district, and the inclusion in lieu of other lands within the boundaries
45 of such irrigation district. Such A severance and transfer of a water

1 right shall require the consent of only the irrigation district within
 2 which the affected lands are situated and of the owners of the lands
 3 affected by the severance and transfer. No proceedings before ~~not~~ OR
 4 approval by the director shall be required to accomplish such A severance
 5 and transfer.

6 7. An application for severance and transfer of a water right shall
 7 be filed with the director. The director shall give notice of the
 8 application by publication once a week for three successive weeks in a
 9 newspaper of general circulation in the county or counties in which the
 10 watershed or drainage area is located. The notice shall state that any
 11 interested person may file written objections to the proposed severance
 12 and transfer with the director within thirty days after the last
 13 publication of the notice. In appropriate cases, including cases in which
 14 an objection has been filed, an administrative hearing may be held before
 15 the director's decision on the application if the director deems a hearing
 16 necessary.

17 B. Section 45-114, subsections A and B govern administrative
 18 proceedings, rehearing or review and judicial review of final decisions of
 19 the director under this section.

20 Sec. 6. Survey; status of waters of this state; delayed
 21 repeal; definitions

22 A. The director of the department of water resources shall:

23 1. Establish a set of standard measures using the best available
 24 science to define ecological water needs in this state. The standard
 25 measures established by the director shall include criteria for examining
 26 the relationship between ecological water needs, groundwater withdrawal
 27 and surface water appropriations in this state.

28 2. On or before December 31, 2028, publish a preliminary survey of
 29 the status of the waters of this state, including the following:

30 (a) A watershed-by-watershed description of the waters of this
 31 state, including an assessment of the overall health of each watershed as
 32 prescribed by section 45-105, subsection B, Arizona Revised Statutes, as
 33 amended by this act.

34 (b) A description of each subwatershed in which there is
 35 insufficient water to satisfy the ecological water needs that are
 36 identified as prescribed in paragraph 1 of this subsection.

37 (c) A determination of the appropriate methods and steps necessary
 38 to monitor, maintain, improve and restore the ecosystems of each
 39 watershed.

40 (d) A recommendation of any statutory changes that are needed to
 41 facilitate actions supporting the ecological water needs of this state.

42 3. Provide for notice and comment of the preliminary survey by:

43 (a) Posting on the department of water resources' website the
 44 preliminary survey prescribed by subsection A, paragraph 2 of this

1 section, copies of all notices required pursuant to section 41-1022,
2 Arizona Revised Statutes, and all proposed rulemakings.

3 (b) Notifying by first class mail, fax or email each person who has
4 made a timely request to the department of water resources for
5 notification of the preliminary survey prescribed by subsection A,
6 paragraph 2 of this section or for notification of all proposed
7 rulemakings under section 41-1022, Arizona Revised Statutes.

8 (c) Holding an open meeting and taking public comment not sooner
9 than sixty days after the department of water resources provides
10 notification under subdivisions (a) and (b) of this paragraph.

11 (d) Responding in writing to all public comments, whether received
12 at the hearing or otherwise, that are received by a date announced by the
13 director in the initial notice.

14 4. Post the final survey and responses to all public comments
15 received on the department of water resources' website for a period of at
16 least six months.

17 B. Any agency or political subdivision of this state that has
18 information relevant to developing the survey, the determinations and the
19 recommendations prescribed by this section shall cooperate with the
20 director of the department of water resources and shall timely provide
21 information requested pursuant to this section by the director.

22 C. This section is repealed from and after September 30, 2029.

23 D. For the purposes of this section:

24 1. "Ecological water needs" means water sufficient to sustain
25 freshwater ecosystems, including riparian areas, and the wildlife habitat,
26 human livelihoods and well-being that depend on those ecosystems.

27 2. "Groundwater" has the same meaning prescribed by section 45-101,
28 Arizona Revised Statutes, as amended by this act.

29 3. "Surface water" has the same meaning prescribed by section
30 45-101, Arizona Revised Statutes, as amended by this act.