

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 114
HOUSE BILL 2835

AN ACT

AMENDING SECTIONS 45-552 AND 45-554, ARIZONA REVISED STATUTES; AMENDING SECTION 45-611, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 143, SECTION 1; AMENDING SECTIONS 45-2401 AND 45-2402, ARIZONA REVISED STATUTES; AMENDING SECTION 45-2423, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 143, SECTION 4; AMENDING SECTION 45-2425, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 143, SECTION 5 AND CHAPTER 332, SECTION 1; AMENDING SECTION 45-2457, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 143, SECTION 6; AMENDING TITLE 45, CHAPTER 14, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 5; AMENDING SECTIONS 45-2601, 45-2611, 45-2622 AND 45-2626, ARIZONA REVISED STATUTES; RELATING TO WATERS; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-552, Arizona Revised Statutes, is amended to
3 read:

4 45-552. Transportation of groundwater withdrawn in McMullen
5 valley basin to an active management area:
6 definitions

7 A. A city that purchased land before January 1, 1988 in the McMullen
8 valley groundwater basin or a person who purchased land before January 1,
9 1988 that was in that basin and that was in the same county as an adjacent
10 initial active management area ~~may~~, either directly or in exchange for
11 central Arizona project water allocated for agricultural purposes, ~~MAY~~
12 transport groundwater from that land to an adjacent initial active management
13 area for use by any city, town, private water company or groundwater
14 replenishment district. A city, town, private water company or groundwater
15 replenishment district that purchases any land in the McMullen valley
16 groundwater basin from that city or land that was in that basin and that was
17 in the same county as an adjacent initial active management area from that
18 person ~~may~~, either directly or in exchange for central Arizona project water
19 allocated for agricultural purposes, ~~MAY~~ transport groundwater from that land
20 to the adjacent initial active management area only for use by a city, town,
21 private water company or groundwater replenishment district ~~OR THE ARIZONA~~
22 ~~WATER BANKING AUTHORITY PURSUANT TO SECTION 45-2491~~. The amount of
23 groundwater that may be transported away from the basin shall be determined
24 pursuant to subsection B of this section but shall not exceed:

25 1. In any year, two times the annual transportation allotment for the
26 land determined pursuant to subsection B of this section.

27 2. For any period of ten consecutive years computed in continuing
28 progressive series beginning in the year transportation of groundwater from
29 the land begins, ten times the annual transportation allotment for the land
30 determined pursuant to subsection B of this section.

31 3. Six million acre-feet in total.

32 B. The director shall determine the annual transportation allotment
33 for land that is subject to this section as follows:

34 1. Determine each farm or portion of a farm on that land.

35 2. For each such farm or portion of a farm, determine the historically
36 irrigated acres.

37 3. Multiply the sum of those historically irrigated acres for all such
38 farms or portions of farms by three acre-feet per acre.

39 C. In an initial active management area, for purposes of determining
40 whether to issue a certificate of assured water supply or to designate or
41 redesignate a city, town or private water company as having an assured water
42 supply, pursuant to section 45-576, based in whole or in part on groundwater
43 transported from the groundwater basin under this section, the director shall
44 consider only the amount of groundwater that can be withdrawn in the
45 groundwater basin from a depth to one thousand two hundred feet at the site
46 or sites of the proposed withdrawals at a rate that, when added to the

1 existing rates of withdrawal in the area, is not expected to cause the
2 groundwater table at the site or sites to decline more than an average of ten
3 feet per year during the one hundred year evaluation period and does not
4 exceed forty per cent of the groundwater that can be withdrawn in the
5 groundwater basin, less the sum of the following amounts of groundwater in
6 the groundwater basin:

7 1. The total amount on which the director has already based
8 certificates or designations of assured water supply in an initial active
9 management area.

10 2. The total amount transported to an initial active management area
11 for other purposes.

12 D. For THE purposes of this section:

13 1. Land that is owned by a city, town, private water company or
14 groundwater replenishment district includes land that is owned indirectly
15 through a nonprofit corporation or other entity that is owned or controlled
16 by the city, town, private water company or groundwater replenishment
17 district.

18 ~~3-~~ 2. "Historically irrigated acres" means land overlying an aquifer
19 that was irrigated with groundwater from that aquifer before January 1, 1988.

20 ~~2-~~ 3. "Person" means person as defined in section 45-402 and a person
21 who purchased land before January 1, 1988 includes any successor in interest
22 of that person if the successor acquires an interest in the land by means of
23 either of the following:

24 (a) Inheritance, devise or intrafamily gift or conveyance directly or
25 in trust.

26 (b) The reorganization of a closely held corporation, a partnership or
27 a limited liability company that is and remains owned by or controlled by or
28 for the benefit of individuals related to that person.

29 Sec. 2. Section 45-554, Arizona Revised Statutes, is amended to read:

30 ~~45-554.~~ Transportation of groundwater withdrawn in Harquahala
31 irrigation non-expansion area to an initial active
32 management area

33 A. A groundwater replenishment district established under title 48,
34 chapter 27 may lease from an irrigation district located entirely within the
35 Harquahala irrigation non-expansion area the use of one or more of the wells
36 in the irrigation district to withdraw the groundwater that can be withdrawn
37 from a depth to one thousand feet, at a rate that, when added to the existing
38 rates of withdrawal in the area, does not cause the groundwater table at the
39 site or sites to decline more than ten feet per year, for transportation to
40 an initial active management area. The lease payments shall be made to the
41 members of the irrigation district on a pro rata basis, per acre of land that
42 is eligible to be irrigated under section 45-437, subsection B, minus the
43 irrigation district's administrative costs. Wells leased under this
44 subsection are exempt from well spacing requirements under section 45-559.

45 B. THIS STATE OR a political subdivision OF THIS STATE that owns land
46 eligible to be irrigated under section 45-437, subsection B in the Harquahala

1 irrigation non-expansion area may withdraw groundwater from the land for
2 transportation to an initial active management area **FOR ITS OWN USE OR USE BY**
3 **THE ARIZONA WATER BANKING AUTHORITY PURSUANT TO SECTION 45-2491** only:

4 1. If the groundwater is withdrawn:

5 (a) From a depth to one thousand feet at the site or sites of the
6 proposed withdrawals.

7 (b) At a rate that, when added to the existing rate of withdrawals in
8 the area, does not cause the groundwater table at the site or sites of the
9 withdrawals to decline more than an average of ten feet per year during the
10 one hundred year evaluation period.

11 2. In an amount either:

12 (a) Per acre of the eligible land, not to exceed:

13 (i) Six acre-feet in any year.

14 (ii) Thirty acre-feet for any period of ten consecutive years computed
15 in continuing progressive series beginning in the year transportation of
16 groundwater from the land begins.

17 (b) Established by the director, but only if the director determines
18 that withdrawals in an amount greater than that permitted by subdivision (a)
19 of this paragraph will not unreasonably increase damage to residents of
20 surrounding land and other water users in the irrigation non-expansion area,
21 or that one or more of the entities withdrawing the groundwater will mitigate
22 the damage to the residents and other water users.

23 C. If this state or one or more political subdivisions of this state
24 own eighty per cent or more of the land that is eligible to be irrigated
25 under section 45-437, subsection B in the irrigation non-expansion area, each
26 of the entities may withdraw groundwater from the eligible land it owns for
27 transportation to an initial active management area:

28 1. From a depth to one thousand feet at the site or sites of
29 withdrawals.

30 2. From a depth between one thousand and one thousand two hundred feet
31 at the site or sites of the withdrawals only if the director determines
32 either that the withdrawals will not unreasonably increase damage to
33 residents of surrounding land or that one or more of the entities withdrawing
34 the groundwater will mitigate the damage to the residents.

35 Sec. 3. Section 45-611, Arizona Revised Statutes, as amended by Laws
36 2005, chapter 143, section 1, is amended to read:

37 45-611. Groundwater withdrawal fee; amounts and purposes of
38 fee; exception

39 A. Except as provided in subsection B of this section, the director
40 shall levy and collect an annual groundwater withdrawal fee from each person
41 withdrawing groundwater in the Prescott active management area or the person
42 who owns the right to withdraw the groundwater, in an amount not to exceed
43 five dollars per acre-foot of groundwater withdrawn and beneficially used.
44 The director shall levy and collect an annual withdrawal fee from each person
45 withdrawing water, other than stored water, from a well in the Santa Cruz
46 active management area or the person who owns the right to withdraw the

1 water, in an amount not to exceed five dollars per acre-foot of water, other
2 than stored water, that is withdrawn and beneficially used. For purposes of
3 this article, the annual withdrawal fee levied and collected in the Santa
4 Cruz active management area shall be considered a groundwater withdrawal fee.
5 The actual amount of the fee levied and collected by the director pursuant to
6 this subsection shall be set by the director as follows:

7 1. For administration and enforcement of this chapter, an amount not
8 less than fifty cents and not greater than one dollar per acre-foot per year.
9 The initial fee for administration and enforcement shall be levied as soon as
10 practicable after the active management area is established.

11 2. For augmentation of the water supply of the active management area,
12 conservation assistance to water users within the active management area and
13 monitoring and assessing water availability within the active management
14 area, an amount not greater than two dollars per acre-foot per year.

15 3. For purchasing and retiring grandfathered rights, an amount not
16 greater than two dollars per acre-foot per year. The initial fee for
17 purchasing and retiring grandfathered rights shall be levied in the first
18 year in which the director develops and implements a program for the purchase
19 and retirement of grandfathered rights as part of the management plan for the
20 active management area, but not earlier than January 1, 2006. The director
21 may not levy a fee under this paragraph on a district member of a groundwater
22 replenishment district that withdraws groundwater in the district for a
23 non-irrigation use in the district.

24 B. A person, other than an irrigation district, who withdraws
25 groundwater in an active management area from a non-exempt well for use
26 pursuant to an irrigation grandfathered right that is appurtenant to ten or
27 fewer irrigation acres and the person who owns the right to withdraw the
28 groundwater are exempt from the groundwater withdrawal fee requirements of
29 subsections A and C of this section for those withdrawals unless the
30 irrigation acres are part of an integrated farming operation.

31 C. Except as provided in section 45-411.01, subsection C and
32 subsection B of this section, the director shall levy and collect an annual
33 groundwater withdrawal fee from each person who withdraws groundwater in the
34 Tucson, Phoenix and Pinal active management areas or the person who owns the
35 right to withdraw the groundwater, in an amount of not more than five dollars
36 per acre-foot of groundwater withdrawn and beneficially used. The director
37 shall set the actual amount of the fee as follows:

38 1. In the Tucson and Phoenix active management areas, beginning in
39 2017, for administration and enforcement of this chapter, an amount of at
40 least fifty cents but not more than one dollar per acre-foot per year. In
41 the Pinal active management area, beginning in 2017, for administration and
42 enforcement of this chapter, an amount of not more than one dollar per
43 acre-foot per year.

44 2. Through 2016, for augmentation of the water supply of the active
45 management area, conservation assistance to water users within the active
46 management area and monitoring and assessing water availability within the

1 active management area, an amount of not more than fifty cents per acre-foot
2 per year, and after 2016, an amount of not more than two dollars per
3 acre-foot per year. If a permanent board of directors of an active
4 management area water district assumes office under section 48-4831, the fee
5 for augmentation under this paragraph shall not be levied in that active
6 management area.

7 3. In the Tucson and Phoenix active management areas, ~~through 2016,~~
8 for Arizona water banking purposes, the amount of two dollars fifty cents per
9 acre-foot per year. In the Pinal active management area, through 2016, for
10 Arizona water banking purposes, including replenishment under chapter 15,
11 article 3 of this title, the amount of two dollars fifty cents per acre-foot
12 per year and, beginning in 2017, for Arizona water banking purposes,
13 including replenishment under chapter 15, article 3 of this title, an amount
14 of not more than two dollars fifty cents per acre-foot per year.

15 4. For purchasing and retiring grandfathered rights, an amount of not
16 more than two dollars per acre-foot per year. The initial fee for purchasing
17 and retiring grandfathered rights shall be levied in the first year in which
18 the director develops and implements a program for the purchase and
19 retirement of grandfathered rights as part of the management plan for the
20 active management area, but not earlier than January 1, 2006. The director
21 may not levy a fee pursuant to this paragraph on a district member of a
22 groundwater replenishment district that withdraws groundwater in the district
23 for non-irrigation use in the district.

24 Sec. 4. Section 45-2401, Arizona Revised Statutes, is amended to read:
25 45-2401. Declaration of policy and purpose

26 A. The legislature finds that this state is currently and temporarily
27 underutilizing both the entitlement to Colorado river water confirmed to it
28 by the United States supreme court in Arizona v. California, 373 U.S. 546
29 (1963), and the central Arizona project, which has the capacity to divert
30 into this state a significant portion of this state's entitlement to Colorado
31 river water. The legislature further finds that, due to the low priority on
32 the Colorado river of the central Arizona project and other Arizona Colorado
33 river water users, the susceptibility of this state to future shortages of
34 water on the Colorado river is a threat to the general economy and welfare of
35 this state and its citizens.

36 B. The legislature further finds that water users within the central
37 Arizona project service area also rely on other surface water supplies, that
38 these supplies are susceptible to future shortages of water and that these
39 shortages are a threat to the general economy and welfare of this state and
40 its citizens.

41 C. The legislature further finds that future water needs in the states
42 of California and Nevada could exceed the entitlements of those states to
43 Colorado river water. Those future water needs could thereby affect the
44 general economy and welfare of this state and its citizens because of the
45 close economic ties among Arizona, California and Nevada.

1 D. The legislature further finds that Arizona water users could more
2 efficiently manage, distribute and use available water resources through the
3 storage of water supplies and through stored water lending arrangements, but
4 that not all of these Arizona water users have the opportunities or resources
5 needed to store water or enter into stored water lending arrangements.

6 E. The legislature further finds that for the purposes of this chapter
7 diverting Colorado river water for storage off of the Colorado river system
8 is a consumptive use of that water.

9 F. The legislature further finds that water banking is complimentary
10 and compatible with existing water management efforts. The Arizona water
11 banking authority will compliment and assist the activities of the central
12 Arizona water conservation district in its mission to provide a dependable
13 and cost-effective water supply.

14 G. The legislature therefore finds that it is in the best interest of
15 the general economy and welfare of this state and its citizens to:

16 1. Use the central Arizona project to store otherwise unused Arizona
17 entitlement to Colorado river water within this state to meet future water
18 needs within this state.

19 2. Provide the opportunity to the states of California and Nevada to
20 store currently unused Colorado river water in Arizona to meet future needs
21 in those states.

22 3. Provide the opportunity to facilitate the storage of water and
23 stored water lending arrangements by entities in Arizona that may not have
24 the opportunities or resources needed to store water.

25 4. PROVIDE THE OPPORTUNITY TO FACILITATE THE SETTLEMENT OF INDIAN
26 WATER RIGHTS CLAIMS BY DELIVERING AND STORING WATER.

27 H. The public policy and general purposes of this chapter are to:

28 1. Increase utilization of Arizona's Colorado river entitlement that
29 was confirmed to Arizona by the United States supreme court in article
30 ii(b)(1), (2) and (6) of the decree entered at Arizona v. California, 376
31 U.S. 340 (1964), and that would otherwise be unused in Arizona, by delivering
32 that water into this state through the central Arizona project aqueducts.

33 2. Store water brought into this state through the central Arizona
34 project to protect Arizona municipal and industrial water users against
35 future water shortages on the Colorado river and disruptions of operation of
36 the central Arizona project.

37 3. Store water brought into this state through the central Arizona
38 project to fulfill the water management objectives of this state set forth in
39 chapter 2 of this title.

40 4. Provide the opportunity for storing water brought into this state
41 through the central Arizona project to be available to implement the
42 settlement of water right claims by Indian communities within Arizona.

43 5. Provide the opportunity to authorized agencies in the states of
44 California and Nevada to store otherwise unused Colorado river water in
45 Arizona to assist those states in meeting future water needs.

1 6. Provide the opportunity to facilitate the storage of water and
2 stored water lending arrangements by entities in Arizona that may not have
3 the opportunities or resources needed to store water.

4 Sec. 5. Section 45-2402, Arizona Revised Statutes, is amended to read:
5 45-2402. Definitions

6 Unless the context otherwise requires, the terms defined in sections
7 45-101, 45-402 and 45-802.01 have the same meaning in this chapter and for
8 purposes of this chapter:

9 1. "Authority" means the Arizona water banking authority.

10 2. "Banking fund" means the Arizona water banking fund.

11 3. "Central Arizona water conservation district" or "CAWCD" means the
12 multi-county water conservation district established under title 48, chapter
13 22.

14 4. "Commission" means the Arizona water banking authority commission.

15 5. "Decree" means the decree entered by the United States supreme
16 court in Arizona v. California, 376 U.S. 340 (1964).

17 6. "INDIAN FIRING" MEANS MEASURES TAKEN TO ENSURE THAT CENTRAL
18 ARIZONA PROJECT NON-INDIAN AGRICULTURAL PRIORITY WATER THAT IS MADE AVAILABLE
19 TO INDIAN TRIBES PURSUANT TO PUBLIC LAW 108-451 MAY BE DELIVERED DURING WATER
20 SHORTAGES IN THE SAME MANNER THAT WATER WITH A MUNICIPAL AND INDUSTRIAL
21 PRIORITY IN THE CENTRAL ARIZONA PROJECT SYSTEM IS DELIVERED DURING WATER
22 SHORTAGES.

23 ~~6.~~ 7. "Water banking services" means services provided by the
24 authority to persons and Indian communities in this state to facilitate for
25 those persons and Indian communities storage of water and stored water
26 lending arrangements. WATER BANKING SERVICES INCLUDE THE DIRECT DELIVERY OF
27 WATER TO INDIAN COMMUNITIES IN THIS STATE IN REPLACEMENT OF OR SUPPLEMENTAL
28 TO THE ACCRUAL OF LONG-TERM STORAGE CREDITS PURSUANT TO ARTICLE 5 OF THIS
29 CHAPTER. Water banking services include only arrangements by which water
30 will be made available for use in this state. Water banking services do not
31 include interstate water banking undertaken by the authority pursuant to
32 article 4 of this chapter. Water banking services may include:

33 (a) Storage of water.

34 (b) Obtaining water storage permits.

35 (c) Accruing, exchanging and assigning long-term storage credits.

36 (d) Lending and obtaining repayment of long-term storage credits.

37 ~~7.~~ 8. "Water banking services agreement" means an agreement entered
38 into between the authority and a person or Indian community in this state
39 under which the authority will provide water banking services to that person
40 or Indian community.

41 Sec. 6. Section 45-2423, Arizona Revised Statutes, as amended by Laws
42 2005, chapter 143, section 4, is amended to read:

43 45-2423. Powers and duties of authority

44 A. The authority, acting through its commission, shall:

45 1. Administer the Arizona water banking fund in accordance with this
46 chapter.

- 1 2. Coordinate its staffing needs with the director and CAWCD.
- 2 3. Coordinate the storage of water and distribution and extinguishment
- 3 of long-term storage credits with the director in accordance with this
- 4 chapter and the water management objectives set forth in chapter 2 of this
- 5 title.
- 6 4. Coordinate with CAWCD for the purchase, delivery and storage of
- 7 Colorado river water delivered through the central Arizona project in
- 8 accordance with this chapter.
- 9 5. Coordinate and confer with state agencies, municipal corporations,
- 10 special districts, authorities, other political subdivisions, private
- 11 entities, Indian communities and the United States on matters within their
- 12 jurisdiction relating to the policy and purposes of this chapter.
- 13 6. Determine, on an annual basis, the quantity of Colorado river
- 14 water, **SURFACE WATER OTHER THAN COLORADO RIVER WATER AND EFFLUENT** to be
- 15 stored by the authority and where that storage will occur.
- 16 7. Account for, hold and distribute or extinguish long-term storage
- 17 credits in accordance with this chapter.
- 18 8. Comply with all aspects of chapter 3.1 of this title.
- 19 9. Perform the authority's replenishment responsibilities under
- 20 chapter 15, article 3 of this title with monies appropriated from the state
- 21 general fund by the legislature for that purpose and to the extent that
- 22 monies appropriated by the legislature for that purpose are not available,
- 23 with monies collected in the Pinal active management area pursuant to section
- 24 45-611, subsection C, paragraph 3.
- 25 **10. CARRY OUT THE OBLIGATIONS OF THIS STATE UNDER SECTION 105 OF PUBLIC**
- 26 **LAW 108-451 AS AGENT FOR THIS STATE, INCLUDING THE DIRECT DELIVERY OF WATER**
- 27 **TO INDIAN COMMUNITIES IN THIS STATE AND THE LEASING OF NON-INDIAN**
- 28 **AGRICULTURAL PRIORITY AND INDIAN PRIORITY CENTRAL ARIZONA PROJECT WATER AS**
- 29 **PRESCRIBED BY ARTICLE 5 OF THIS CHAPTER.**
- 30 ~~10-~~ 11. Adopt an official seal for the authentication of its records,
- 31 decisions and resolutions.
- 32 ~~11-~~ 12. Keep the minutes of its meetings and all records, reports and
- 33 other information relating to its work and programs in permanent form,
- 34 systematically indexed and filed.
- 35 B. The authority, acting through its commission, may:
- 36 1. Apply for and hold water storage permits.
- 37 2. Accrue, exchange, assign, lend and hold long-term storage credits
- 38 in accordance with this chapter.
- 39 3. Exchange Colorado river water for any type of water in accordance
- 40 with chapter 4 of this title.
- 41 4. Enter into water banking services agreements.
- 42 5. Charge fees for water banking services.
- 43 6. Apply for and hold any water quality permit required for water
- 44 storage by the department of environmental quality under title 49, chapter 2,
- 45 article 3 or by federal law.

1 7. Make and execute all contracts, including intergovernmental
2 agreements pursuant to title 11, chapter 7, article 3, that shall be signed
3 by the chairperson, or in the chairperson's absence the vice-chairperson, and
4 attested by the secretary, necessary to:

5 (a) Obtain for storage Colorado river water delivered through the
6 central Arizona project. Agreements by which the authority obtains Colorado
7 river water are exempt from the requirements of title 41, chapter 23.

8 (b) Obtain effluent **OR SURFACE WATER OTHER THAN COLORADO RIVER WATER**
9 for storage but only after the authority has stored all available excess
10 Central Arizona project water or when central Arizona project water is
11 otherwise unavailable or undeliverable.

12 (c) Affiliate water storage permits held by the authority with storage
13 facility permits.

14 (d) Store ~~Colorado river~~ water **FOR PURPOSES OF THIS CHAPTER** at
15 permitted storage facilities.

16 (e) Distribute long-term storage credits earned by the authority to
17 make water available to municipal and industrial users of Colorado river
18 water in this state that are inside or outside of the CAWCD service area, in
19 accordance with the provisions of this chapter.

20 (f) Store Colorado river water in Arizona on behalf of appropriately
21 authorized agencies in California and Nevada.

22 (g) Cause a decrease in Arizona diversions from the Colorado river,
23 ensuring that Arizona will use less than its full entitlement to Colorado
24 river water in years in which California and Nevada agencies are
25 contractually authorized to call on the water stored on their behalf by the
26 authority.

27 (h) Distribute long-term storage credits earned by the authority on
28 behalf of agencies in California and Nevada to Colorado river water users in
29 Arizona to use in place of Colorado river water that would have otherwise
30 been used by those Arizona users.

31 (i) Replenish water pursuant to chapter 15, article 3 of this title,
32 including entering into an intergovernmental agreement with the Gila river
33 Indian community pursuant to section 45-2624.

34 (j) **DISTRIBUTE LONG-TERM STORAGE CREDITS EARNED BY THE AUTHORITY TO**
35 **MAKE WATER AVAILABLE TO INDIAN COMMUNITIES IN THIS STATE FOR INDIAN FIRING**
36 **MEASURES PURSUANT TO ARTICLE 5 OF THIS CHAPTER.**

37 8. Sue and be sued.

38 9. Perform all other acts necessary for the authority to carry out its
39 purposes, powers and duties in accordance with this chapter.

40 10. Submit a request for a general fund appropriation to the
41 legislature each year. A request shall be accompanied by a budget detailing
42 how the appropriation would be used and justifying the need for the
43 appropriation.

44 11. Form temporary committees as deemed necessary by the authority to
45 provide the authority with advice on issues identified by the authority.

1 Advisory committees may consist of members of the public selected by the
2 authority, members of the authority and authority staff.

3 12. Purchase long-term storage credits accrued by an Indian community
4 pursuant to section 45-841.01, provided such long-term storage credits are
5 distributed or extinguished in accordance with the rules of operation
6 specified in section 45-2457 for the funds used by the authority to purchase
7 the credits.

8 Sec. 7. Section 45-2425, Arizona Revised Statutes, as amended by Laws
9 2005, chapter 143, section 5 and chapter 332, section 1, is amended to read:

10 45-2425. Arizona water banking fund

11 A. The Arizona water banking fund is established and shall include
12 subaccounts based on funding sources. The authority shall administer the
13 banking fund in accordance with this chapter.

14 B. The banking fund consists of all of the following:

15 1. Monies appropriated from the state general fund by the legislature
16 for water banking purposes other than replenishment under chapter 15, article
17 3 of this title.

18 2. Monies appropriated from the state general fund by the legislature
19 for replenishment under chapter 15, article 3 of this title.

20 3. Reimbursement for the distribution of long-term storage credits,
21 collected by the authority in accordance with section 45-2457, subsection B,
22 paragraph 2.

23 4. Monies paid to the authority by the recipients of in lieu water at
24 a groundwater savings facility, in accordance with section 45-2455,
25 subsection C.

26 5. Monies collected in accordance with section 45-611, subsection C,
27 paragraph 3.

28 6. Monies deposited in the banking fund in accordance with section
29 48-3715.03, subsection B.

30 7. Monies paid to the authority by agencies that have entered into
31 interstate water banking agreements with the authority in accordance with
32 section 45-2471. All monies received through an interstate water banking
33 agreement with the state of Nevada that are not used to purchase or store
34 water or otherwise fulfill contractual obligations with the state of Nevada
35 are subject to legislative appropriation.

36 8. Monies paid to the authority by persons and Indian communities in
37 this state that have entered into water banking services agreements with the
38 authority in accordance with section 45-2458.

39 C. In addition to the monies prescribed in this section, the authority
40 may accept any gifts, grants or donations and deposit those monies in the
41 banking fund.

42 D. Monies in the banking fund are exempt from ~~lapsing under~~ THE
43 PROVISIONS OF section 35-190 RELATING TO LAPSING OF APPROPRIATIONS. On
44 notice from the authority, the state treasurer shall invest and divest monies
45 in the fund as provided by section 35-313, and monies earned from investment
46 shall be credited to the banking fund. The authority may invest the monies

1 paid to the authority in accordance with section 45-2471, ~~Arizona Revised~~
2 ~~Statutes~~, with the state treasurer pursuant to section 35-326, ~~Arizona~~
3 ~~Revised Statutes~~.

4 E. The authority may use the banking fund to pay all reasonable
5 expenses incurred in carrying out its duties and responsibilities in
6 accordance with this chapter.

7 F. THE AUTHORITY SHALL ESTABLISH A RESERVE SUBACCOUNT IN THE FUND FOR
8 THE DEPOSIT OF MONIES TO BE USED FOR THE PURPOSES OF ARTICLE 5 OF THIS
9 CHAPTER.

10 Sec. 8. Section 45-2457, Arizona Revised Statutes, as amended by Laws
11 2005, chapter 143, section 6, is amended to read:

12 45-2457. Accounting; rules of operation

13 A. The authority shall develop an accounting system for the long-term
14 storage credits accrued by the authority. The accounting system shall be
15 designed to allow the authority to determine which funding source of the
16 banking fund paid for each long-term storage credit accrued by the authority.

17 B. The authority shall operate in accordance with all of the following
18 rules of operation:

19 1. The authority shall reserve a reasonable number of long-term
20 storage credits accrued with general fund appropriations, other than general
21 fund appropriations for replenishment under chapter 15, article 3 of this
22 title, for the benefit of municipal and industrial users of Colorado river
23 water in this state that are outside of the service area of CAWCD.

24 2. The authority may distribute long-term storage credits accrued with
25 general fund appropriations, other than general fund appropriations for
26 replenishment under chapter 15, article 3 of this title, for both of the
27 following:

28 (a) To make water available to a municipal and industrial user of
29 Colorado river water in this state that is outside of the service area of
30 CAWCD, if both of the following apply:

31 (i) The municipal and industrial user would otherwise suffer a water
32 shortage. The authority may distribute long-term credits to the extent
33 reasonably necessary to offset the water shortage.

34 (ii) The authority collects reimbursement for the cost to the
35 authority of replacing the long-term storage credits distributed. The
36 authority may replace the long-term storage credits in any year it deems
37 appropriate but shall use good faith efforts to replace the long-term storage
38 credits at a reasonable cost to the person who is responsible for reimbursing
39 the authority for the credits distributed.

40 (b) To make water available to CAWCD to the extent necessary for CAWCD
41 to meet the demands of its municipal and industrial subcontractors, if all of
42 the following apply:

43 (i) CAWCD's normal diversions from the Colorado river have been or
44 will be disrupted by shortages on the river or by disruptions in the
45 operation of the central Arizona project.

1 (ii) The authority does not distribute for this purpose the long-term
2 storage credits reserved in accordance with paragraph 1.

3 (iii) The authority collects reimbursement from CAWCD for the cost to
4 the authority of replacing the long-term storage credits distributed. The
5 authority may replace the long-term storage credits in any year it deems
6 appropriate but shall use good faith efforts to replace the long-term storage
7 credits at a reasonable cost to CAWCD.

8 3. The authority may distribute or extinguish long-term storage
9 credits accrued with general fund appropriations, other than general fund
10 appropriations for replenishment under chapter 15, article 3 of this title,
11 to implement the settlement of water right claims by Indian communities in
12 this state.

13 4. On request from the director, the authority may extinguish
14 long-term storage credits accrued with general fund appropriations, other
15 than general fund appropriations for replenishment under chapter 15, article
16 3 of this title, to fulfill the water management objectives set forth in
17 chapter 2 of this title.

18 5. The authority may exchange long-term storage credits accrued with
19 general fund appropriations for long-term storage credits held by other
20 persons if the long-term storage credits received by the authority were
21 stored in a location that better enables the authority to fulfill the
22 purposes and policies of this chapter than were the long-term storage credits
23 exchanged by the authority. For the purposes of this paragraph, the
24 authority may make exchanges of long-term storage credits stored in one
25 active management area for long-term storage credits stored in a different
26 active management area or of long-term storage credits stored in one
27 groundwater basin for long-term storage credits stored in a different
28 groundwater basin.

29 6. The authority shall distribute or extinguish long-term storage
30 credits accrued with monies collected in accordance with section 45-611,
31 subsection C, paragraph 3 only for the benefit of the active management area
32 in which the monies were collected. The authority may distribute or
33 extinguish these long-term storage credits **TO THE EXTENT NECESSARY TO MEET**
34 **THE DEMANDS OF CAWCD'S MUNICIPAL AND INDUSTRIAL SUBCONTRACTORS DURING TIMES**
35 **IN WHICH CAWCD'S DIVERSIONS FROM THE COLORADO RIVER HAVE BEEN OR WILL BE**
36 **DISRUPTED BY SHORTAGES ON THE COLORADO RIVER OR BY DISRUPTIONS IN OPERATION**
37 **OF THE CENTRAL ARIZONA PROJECT**, to implement the settlement of water right
38 claims by Indian communities in this state or, on request from the director,
39 to meet the **OTHER** water management objectives set forth in chapter 2 of this
40 title. The authority may use the monies collected in the Pinal active
41 management area under section 45-611, subsection C, paragraph 3 to acquire
42 long-term storage credits for replenishment purposes under chapter 15,
43 article 3 of this title.

44 7. The authority shall distribute long-term storage credits accrued
45 with monies deposited in the fund in accordance with section 48-3715.03,
46 subsection B only for the benefit of the county in which the monies were

1 collected. The authority shall distribute these long-term storage credits to
2 CAWCD to the extent necessary to meet the demands of CAWCD's municipal and
3 industrial subcontractors during times in which CAWCD's diversions from the
4 Colorado river have been or will be disrupted by shortages on the Colorado
5 river or by disruptions in operation of the central Arizona project.

6 8. For each county within the CAWCD service area, on a determination
7 by the authority that the number of long-term storage credits accrued with
8 monies deposited in the fund in accordance with section 48-3715.03,
9 subsection B exceeds the needs specified in paragraph 7 for that county, the
10 authority shall distribute those excess long-term storage credits to
11 municipal water providers within that county that are at the time of
12 distribution experiencing surface water supply shortages not associated with
13 the central Arizona project. The authority shall distribute to each such
14 municipal water provider the lesser of the following number of long-term
15 storage credits:

16 (a) The total number of credits determined to be available by the
17 authority under this paragraph multiplied by the percentage produced by
18 dividing a numerator equaling the amount of revenues paid pursuant to section
19 48-3715.02, subsections B and C by taxpayers that are within both the
20 boundaries of the municipal provider that is experiencing the shortage and
21 the boundaries of the surface water supply system that is experiencing the
22 shortage by a denominator equaling the total revenues paid pursuant to
23 section 48-3715.02, subsections B and C by all taxpayers that are located
24 within both the boundaries of a municipal water provider and the boundaries
25 of a surface water supply system in the county. In making these
26 computations, the authority shall use the amounts of revenue paid by
27 taxpayers during the most recent tax year for which this information is
28 available.

29 (b) Twenty per cent of the total surface water shortage that the
30 municipal and industrial water provider is experiencing.

31 9. The authority shall distribute or replace long-term storage credits
32 accrued with monies collected pursuant to water banking services agreements
33 in accordance with the terms of those agreements.

34 10. The authority shall acquire sufficient water supplies to perform
35 its replenishment responsibilities under chapter 15, article 3 of this title.
36 The authority shall acquire those water supplies with monies appropriated
37 from the state general fund by the legislature for replenishment under
38 chapter 15, article 3 of this title and to the extent that monies
39 appropriated by the legislature for that purpose are not available, with
40 monies collected in the Pinal active management area under section 45-611,
41 subsection C, paragraph 3. The authority shall use the water supplies
42 acquired pursuant to this paragraph for any replenishment activity authorized
43 by section 45-2623 and for implementation of the southside replenishment bank
44 established by section 45-2624, including delivering water directly to the
45 Gila river Indian community for those purposes.

1 C. Any other long-term storage credits accrued by the authority may be
2 distributed or extinguished by the authority in accordance with the policy
3 and purposes of this chapter.

4 D. Except as provided by subsection B, paragraph 7 of this section and
5 except as provided by agreements entered into by the authority, the decision
6 to distribute or extinguish any long-term storage credit accrued by the
7 authority is at the complete discretion of the authority.

8 Sec. 9. Title 45, chapter 14, Arizona Revised Statutes, is amended by
9 adding article 5, to read:

10 ARTICLE 5. INDIAN FIRING MEASURES

11 45-2491. State commitments to firm Indian settlement water

12 A. THE AUTHORITY SHALL ACT AS AGENT FOR THIS STATE IN MEETING THIS
13 STATE'S OBLIGATION TO DELIVER WATER IN TIMES OF SHORTAGE PURSUANT TO PUBLIC
14 LAW 108-451, FULFILLING THE REQUIREMENTS OF SECTIONS 105, 207(c)(I)(ii) AND
15 302(b)(8), AND THE INDIAN FIRING MEASURES ESTABLISHED PURSUANT TO THIS
16 ARTICLE. IN CARRYING OUT THIS OBLIGATION THE AUTHORITY MAY:

17 1. STORE WATER AT PERMITTED RECHARGE FACILITIES FOR THE PURPOSE OF
18 INDIAN FIRING.

19 2. ENTER INTO CONTRACTS OR AGREEMENTS WITH THE UNITED STATES AND
20 INDIAN COMMUNITIES FOR STORAGE, RECOVERY OR DIRECT DELIVERY OF WATER FOR
21 INDIAN FIRING.

22 3. ENTER INTO LEASING AGREEMENTS WITH ONE OR MORE INDIAN COMMUNITIES
23 IN PARTNERSHIP WITH OTHER ENTITIES FOR NON-INDIAN AGRICULTURAL PRIORITY OR
24 INDIAN PRIORITY CENTRAL ARIZONA PROJECT WATER.

25 4. ENTER INTO CONTRACTS FOR THE USE OF WATER SOURCES INCLUDING
26 COLORADO RIVER WATER, SURFACE WATER OTHER THAN COLORADO RIVER WATER AND
27 EFFLUENT.

28 5. ENTER INTO CONTRACTS WITH ELIGIBLE ENTITIES FOR THE USE OF IMPORTED
29 GROUNDWATER FROM ALLOWABLE GROUNDWATER BASINS PURSUANT TO SECTIONS 45-552,
30 45-553 AND 45-554 FOR THE PURPOSES OF INDIAN FIRING.

31 6. ENTER INTO AGREEMENTS WITH A MULTI-COUNTY WATER CONSERVATION
32 DISTRICT ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 22 FOR DELIVERY OF WATER
33 TO INDIAN COMMUNITIES.

34 7. SUBJECT TO PERIODIC REVIEW OF PROGRESS TOWARD MEETING THIS STATE'S
35 INDIAN FIRING OBLIGATION, ALLOW FOR THE USE OF EXISTING LONG-TERM STORAGE
36 CREDITS DEVELOPED FROM WITHDRAWAL FEES COLLECTED PURSUANT TO SECTION 45-611,
37 SUBSECTION C, PARAGRAPH 3.

38 8. TRANSFER LONG-TERM STORAGE CREDITS TO A MULTI-COUNTY WATER
39 CONSERVATION DISTRICT ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 22 FOR
40 RECOVERY AND SUBSEQUENT DELIVERY TO INDIAN COMMUNITIES IN TIMES OF SHORTAGE.

41 9. ENTER INTO AGREEMENTS FOR THE RECOVERY OF LONG-TERM STORAGE CREDITS
42 FOR PURPOSES OF INDIAN FIRING.

43 B. INDIAN FIRING MEASURES ESTABLISHED PURSUANT TO THIS ARTICLE SHALL
44 INCLUDE FUNDING FROM THE FOLLOWING SOURCES:

45 1. LEGISLATIVE APPROPRIATIONS PROVIDED FOR INDIAN FIRING ON AN ANNUAL
46 BASIS TO CARRY OUT INDIAN FIRING MEASURES.

1 2. TO THE EXTENT NECESSARY TO CARRY OUT INDIAN FIRING MEASURES AFTER
2 EXPENDITURE OF LEGISLATIVE APPROPRIATIONS, THE AUTHORITY MAY USE WITHDRAWAL
3 FEES COLLECTED FROM THE PHOENIX, PINAL AND TUCSON ACTIVE MANAGEMENT AREA
4 WATER MANAGEMENT ACCOUNTS.

5 Sec. 10. Section 45-2601, Arizona Revised Statutes, is amended to
6 read:

7 45-2601. Definitions

8 Unless the context otherwise requires, the terms defined in sections
9 45-402 and 45-802.01 have the same meaning in this chapter and for the
10 purposes of this chapter:

11 1. "Central protection zone" means the central protection zone
12 established under section 45-2602.

13 2. "Community" means the Gila river Indian community, a government
14 composed of members of the Pima tribe and the Maricopa tribe and organized
15 under section 16 of the act of June 18, 1934 (25 United States Code section
16 476).

17 3. "Dam" has the meaning prescribed in section 45-1201 on January 1,
18 2005.

19 4. "Designed storage capacity" means the storage capacity in acre-feet
20 of a reservoir at the elevation of the lowest spillway in the dam impounding
21 water in the reservoir, as the dam was originally constructed.

22 5. "Eastern protection zone" means the eastern protection zone north
23 or the eastern protection zone south.

24 6. "Eastern protection zone north" means the eastern protection zone
25 north established under section 45-2602, subsection A.

26 7. "Eastern protection zone south" means the eastern protection zone
27 south established under section 45-2602, subsection A.

28 8. "Gila river maintenance area" means the Gila river maintenance area
29 established under section 45-2603, subsection A.

30 9. "Gila river maintenance area impact zone" means the Gila river
31 maintenance area impact zone established under section 45-2603, subsection B.

32 10. "Globe equity decree" means the decree dated June 29, 1935 and
33 entered in United States of America v. Gila valley irrigation district, Globe
34 equity No. 59, et al. by the United States district court for the district of
35 Arizona and includes all court orders and decisions supplemental to that
36 decree.

37 11. "Industrial use" means all of the following:

38 (a) A nonirrigation use of water commenced after December 31, 2002
39 that is not supplied by a municipal provider, including animal industry use
40 and expanded animal industry use.

41 (b) A use of groundwater commenced before January 1, 2003 by a holder
42 of a type 1 nonirrigation grandfathered right in existence on December 31,
43 2002, other than a type 1 nonirrigation grandfathered right held by a
44 municipal provider and other than a use under another groundwater right or
45 permit, in excess of the amount allowed under the type 1 nonirrigation
46 grandfathered right.

1 (c) A use of groundwater commenced before January 1, 2003 by a holder
2 of a type 2 nonirrigation grandfathered right in existence on December 31,
3 2002, other than a type 2 nonirrigation grandfathered right held by a
4 municipal provider, in excess of the amount allowed under the right and for
5 which the holder has no other groundwater right.

6 (d) A use of groundwater commenced before January 1, 2003 by a holder
7 of a general industrial use permit issued under section 45-515 and in
8 existence on December 31, 2002, other than a use under another groundwater
9 right or permit, in excess of the amount allowed under the general industrial
10 use permit.

11 12. "Irrigation use" means the use of water on two or more acres of
12 land to produce plants or parts of plants for sale or human consumption, or
13 for use as feed for livestock, range livestock or poultry, as defined in
14 section 3-1201.

15 13. "Municipal acre" means the acre or acres of land within a
16 protection zone, on which water pumped from within a protection zone is
17 supplied by a municipal provider, on which water use was first commenced
18 after December 31, 2002 and for which the water use is reported pursuant to
19 section 45-632, 45-875.01 or 45-2602.

20 14. "Municipal provider" means a city, town, private water company or
21 ~~irrigation district~~ SPECIAL TAXING DISTRICT ESTABLISHED PURSUANT TO TITLE 48
22 that supplies water for nonirrigation use.

23 15. "Municipal use" means a nonirrigation use of water commenced after
24 December 31, 2002 and supplied by a municipal provider on municipal acres.

25 16. "Nonirrigation use" means a use of water withdrawn from a well,
26 other than an irrigation use.

27 17. "Reservation" means the Gila river Indian community reservation.

28 18. "Settlement agreement" means the agreement entitled the "Gila river
29 Indian community water rights settlement agreement", dated February 4, 2003
30 between the community, this state and other parties, as amended before ~~the~~
31 ~~effective date of this section~~ DECEMBER 21, 2005, a copy of which is on file
32 in the department.

33 19. "Southside protection zones" means the eastern protection zone
34 north, the eastern protection zone south, the western municipal protection
35 zone, the western municipal and industrial protection zone and the central
36 protection zone.

37 20. "Stockpond" means a pond that has a capacity of not more than
38 fifteen acre-feet and that is used solely for watering livestock or wildlife.
39 Stockpond does not include a pond used primarily for fishing or for the
40 culturing of fish.

41 21. "Stored water" means water that has been stored or saved
42 underground pursuant to a storage permit issued under chapter 3.1 of this
43 title.

44 22. "Underground water" means water, other than stored water, withdrawn
45 from a well.

46 23. "Water company" means either of the following:

1 (a) A private water company that as of January 1, 2000 was regulated
2 as a public service corporation by the Arizona corporation commission and was
3 withdrawing underground water from lands now within the eastern protection
4 zone north.

5 (b) Any successor of a private water company described in subdivision
6 (a) of this paragraph.

7 24. "Western municipal and industrial protection zone" means the
8 western municipal and industrial protection zone established under section
9 45-2602, subsection A.

10 25. "Western municipal protection zone" means the western municipal
11 protection zone established under section 45-2602, subsection A.

12 26. "Western protection zones" means the western municipal protection
13 zone and the western municipal and industrial protection zone.

14 Sec. 11. Section 45-2611, Arizona Revised Statutes, is amended to
15 read:

16 45-2611. Transportation of underground water and stored water
17 away from an eastern protection zone or western
18 protection zone prohibited; exceptions

19 A. Except as provided in subsection B of this section, beginning on
20 the effective date of this section, underground water or stored water
21 withdrawn in an eastern protection zone or a western protection zone may not
22 be transported away from the protection zone in which the water was withdrawn
23 if the transportation is for a nonirrigation use.

24 B. Subsection A of this section does not apply to any of the
25 following:

26 1. The transportation of underground water or stored water away from
27 an eastern protection zone or a western protection zone for a nonirrigation
28 use in an annual amount that does not exceed the highest annual volume of
29 underground water or stored water transported away from the same protection
30 zone for that use during calendar years 1999 through 2001.

31 2. The transportation of underground water or stored water away from
32 an eastern protection zone or a western protection zone for a nonirrigation
33 use if the person transporting the underground water or stored water
34 replenishes the water as provided in section 45-2625 within twenty-four
35 months after the end of the calendar year in which the transportation occurs.

36 3. The transportation of underground water or stored water away from
37 an eastern protection zone or a western protection zone for a nonirrigation
38 use if the person transporting the underground water or stored water replaces
39 the water with an equivalent amount of water imported into that protection
40 zone within the same calendar year in which the transportation occurs.

41 4. The transportation of stored water away from an eastern protection
42 zone or a western protection zone if the stored water was originally stored
43 in the protection zone from which the water was recovered.

44 5. The transportation of underground water or stored water between the
45 eastern protection zone north and the eastern protection zone south.

1 6. The transportation of underground water or stored water between the
2 western municipal and industrial protection zone and the western municipal
3 protection zone if the water is transported for a municipal use on municipal
4 acres.

5 7. Through 2023, the transportation of underground water and stored
6 water withdrawn by a water company within an eastern protection zone and
7 transported by the water company for municipal uses outside of the eastern
8 protection zones. For the purposes of this paragraph, stored water does not
9 include any water stored within an eastern protection zone and recovered
10 within that protection zone.

11 8. Beginning with calendar year 2024, the annual transportation of up
12 to one thousand two hundred seventy-five acre-feet of underground water and
13 stored water withdrawn by a water company within ~~an~~ THE eastern protection
14 ~~zone~~ ZONES and transported by the water company for municipal uses outside of
15 the eastern protection zones. For the purposes of this paragraph, stored
16 water does not include any water stored within an eastern protection zone and
17 recovered within that protection zone.

18 Sec. 12. Section 45-2622, Arizona Revised Statutes, is amended to
19 read:

20 45-2622. Annual southside replenishment obligations

21 A. No later than October 1 of each calendar year following the year in
22 which this section becomes effective, the director shall calculate the
23 southside replenishment obligations for the preceding calendar year and
24 notify the authority of the amount of the obligations.

25 B. The director shall calculate the southside replenishment
26 obligations for a calendar year as follows:

27 1. The director shall calculate the municipal and industrial
28 replenishment obligation for the western municipal and industrial protection
29 zone for the year as follows:

30 (a) Determine the total amount of underground water and stored water
31 withdrawn during the year from within the western municipal and industrial
32 protection zone for municipal uses within a western protection zone and the
33 total amount of underground water and stored water withdrawn during the year
34 from within the western municipal and industrial protection zone for
35 industrial uses within the western municipal and industrial protection zone,
36 as reported to the director under sections 45-632, 45-875.01 and 45-2602.
37 For the purposes of this subdivision, stored water does not include any water
38 stored at a storage facility located within the western municipal and
39 industrial protection zone ~~or any water stored and recovered on an annual~~
40 ~~basis pursuant to section 45-851.01.~~

41 (b) Divide the volume of water determined in subdivision (a) of this
42 paragraph by the total number of municipal acres and industrial acres within
43 the western protection zones on which the water was used during the year.

44 (c) Multiply the total number of municipal acres and industrial acres
45 within the western protection zones on which the water determined in
46 subdivision (a) of this paragraph was used during the year by two acre-feet.

1 (d) Subtract the product in subdivision (c) of this paragraph from the
2 quotient in subdivision (b) of this paragraph. The result is the municipal
3 and industrial replenishment obligation for the western municipal and
4 industrial protection zone for the year, except that if the result is less
5 than zero, there is no replenishment obligation.

6 2. The director shall calculate the municipal replenishment obligation
7 for the western municipal protection zone for the year as follows:

8 (a) Determine the total amount of underground water and stored water
9 withdrawn during the year from within the western municipal protection zone
10 for municipal uses within a western protection zone, as reported to the
11 director under sections 45-632, 45-875.01 and 45-2602. For the purposes of
12 this subdivision, stored water does not include any water stored at a storage
13 facility located within the western municipal protection zone ~~or any water~~
14 ~~stored and recovered on an annual basis pursuant to section 45-851.01.~~

15 (b) Divide the volume of water determined in subdivision (a) of this
16 paragraph by the total number of municipal acres within the western
17 protection zones on which the water was used during the year.

18 (c) Multiply the total number of municipal acres within the western
19 protection zones on which the water determined in subdivision (a) of this
20 paragraph was used during the year by two acre-feet.

21 (d) Subtract the product in subdivision (c) of this paragraph from the
22 quotient in subdivision (b) of this paragraph. The result is the municipal
23 replenishment obligation for the western municipal protection zone for the
24 year, except that if the result is less than zero, there is no replenishment
25 obligation.

26 3. The director shall calculate the municipal and industrial
27 replenishment obligation for the eastern protection zone north for the year
28 as follows:

29 (a) Determine the total amount of underground water and stored water
30 withdrawn during the year from within the eastern protection zone north for
31 municipal uses and industrial uses within an eastern protection zone, as
32 reported to the director under sections 45-632, 45-875.01 and 45-2602. For
33 the purposes of this subdivision, stored water does not include any water
34 stored at a storage facility located within the eastern protection zone north
35 ~~or any water stored and recovered on an annual basis pursuant to section~~
36 ~~45-851.01.~~

37 (b) Determine the total amount of underground water and stored water
38 withdrawn during the year by a water company from within the eastern
39 protection zone south and used for municipal uses within the eastern
40 protection zone north. For the purposes of this subdivision, stored water
41 does not include any water stored at a storage facility located within the
42 eastern protection zone south ~~or any water stored and recovered on an annual~~
43 ~~basis pursuant to section 45-851.01.~~

44 (c) Add the volumes of water in subdivisions (a) and (b) of this
45 paragraph and then divide the sum by the total number of municipal acres and

1 industrial acres within the eastern protection zones on which the water was
2 used during the year.

3 (d) Multiply the total number of municipal acres and industrial acres
4 within the eastern protection zones on which the water determined in
5 subdivision (c) of this paragraph was used during the year by 2.33 acre-feet.

6 (e) Subtract the product in subdivision (d) of this paragraph from the
7 quotient in subdivision (c) of this paragraph. The result is the municipal
8 and industrial replenishment obligation for the eastern protection zone north
9 for the year, except that if the result is less than zero, there is no
10 replenishment obligation.

11 4. The director shall calculate the municipal and industrial
12 replenishment obligation for the eastern protection zone south for the year
13 as follows:

14 (a) Determine the total amount of underground water and stored water
15 withdrawn during the year from within the eastern protection zone south for
16 municipal uses and industrial uses within an eastern protection zone, as
17 reported to the director under sections 45-632, 45-875.01 and 45-2602. For
18 the purposes of this subdivision, stored water does not include any water
19 stored at a storage facility located within the eastern protection zone south
20 ~~or any water stored and recovered on an annual basis pursuant to section~~
21 ~~45-851.01.~~

22 (b) Determine the total amount of underground water and stored water
23 withdrawn during the year by a water company from within the eastern
24 protection zone south and used for municipal uses within the eastern
25 protection zone north. For the purposes of this subdivision, stored water
26 does not include any water stored at a storage facility located within the
27 eastern protection zone south ~~or any water stored and recovered on an annual~~
28 ~~basis pursuant to section 45-851.01.~~

29 (c) Subtract the volume in subdivision (b) of this paragraph from the
30 volume in subdivision (a) of this paragraph and then divide the difference by
31 the total number of municipal acres and industrial acres within the eastern
32 protection zones on which the water determined in subdivision (a) of this
33 paragraph other than water determined in subdivision (b) of this paragraph
34 was used during the year.

35 (d) Multiply the total number of municipal acres and industrial acres
36 within the eastern protection zones on which the water determined in
37 subdivision (a) of this paragraph other than water determined in subdivision
38 (b) of this paragraph was used during the year by 2.33 acre-feet.

39 (e) Subtract the product in subdivision (d) of this paragraph from the
40 quotient in subdivision (c) of this paragraph. The result is the municipal
41 and industrial replenishment obligation for the eastern protection zone south
42 for the year, except that if the result is less than zero, there is no
43 replenishment obligation.

44 5. The director shall calculate the irrigation replenishment
45 obligation for the western municipal and industrial protection zone and the
46 western municipal protection zone for the year as follows:

1 (a) Determine the total amount of underground water and stored water
2 withdrawn during the year from within the western municipal and industrial
3 protection zone and the western municipal protection zone and used for the
4 irrigation of lands within those protection zones, as reported to the
5 director on the annual reports required by sections 45-632, 45-875.01 and
6 45-2602. For the purposes of this subdivision, stored water does not include
7 any water stored at a storage facility located within the western municipal
8 and industrial protection zone or the western municipal protection zone.

9 (b) For each farm within the western municipal and industrial
10 protection zone and the western municipal protection zone for which an annual
11 report is filed under section 45-632, 45-875.01 or 45-2602 for the year,
12 calculate the maximum amount of groundwater that may be used on the farm for
13 irrigation purposes during the year without causing the flexibility account
14 for the farm to be in arrears in excess of the amount allowed under section
15 45-467, subsection I. In making this calculation, the director shall use the
16 irrigation water duty established for the farm for the third management
17 period pursuant to section 45-566, subsection A, paragraph 1.

18 (c) Add together the amount calculated for each farm under
19 subdivision (b) of this paragraph.

20 (d) Subtract the amount in subdivision (c) of this paragraph from the
21 amount in subdivision (a) of this paragraph. The difference is the
22 irrigation replenishment obligation for the year for the western municipal
23 and industrial protection zone and the western municipal protection zone,
24 except that if the difference is less than zero, there is no replenishment
25 obligation.

26 6. The director shall calculate the irrigation replenishment
27 obligation for the eastern protection zone north and the eastern protection
28 zone south for the year as follows:

29 (a) Determine the total amount of underground water and stored water
30 withdrawn during the year from within the eastern protection zone north and
31 the eastern protection zone south and used for the irrigation of lands within
32 those protection zones, as reported to the director on the annual reports
33 required by section 45-632, section 45-875.01, subsection D and section
34 45-2602. For the purposes of this subdivision, stored water does not include
35 any water stored at a storage facility located within the eastern protection
36 zone north or the eastern protection zone south.

37 (b) For each farm within the eastern protection zone north and the
38 eastern protection zone south for which an annual report is filed under
39 section 45-632, 45-875.01 or 45-2602 for the year, calculate the maximum
40 amount of groundwater that may be used on the farm for irrigation purposes
41 during the year without causing the flexibility account for the farm to be in
42 arrears in excess of the amount allowed under section 45-467, subsection
43 I. In making this calculation, the director shall use the irrigation water
44 duty established for the farm for the third management period pursuant to
45 section 45-566, subsection A, paragraph 1.

1 (c) Add together the amount calculated for each farm under
2 subdivision (b) of this paragraph.

3 (d) Subtract the amount in subdivision (c) of this paragraph from the
4 amount in subdivision (a) of this paragraph. The difference is the
5 irrigation replenishment obligation for the year for the eastern protection
6 zone north and the eastern protection zone south, except that if the
7 difference is less than zero, there is no replenishment obligation.

8 7. Through 2023, the director shall calculate the water company
9 replenishment obligation for the year by determining the amount of
10 underground water and stored water withdrawn during the year from within ~~an~~
11 ~~THE~~ eastern protection ~~zone~~ ZONES by a water company and transported for
12 municipal uses outside of the eastern protection zones and then subtracting
13 from that amount one thousand two hundred seventy-five acre-feet. The
14 difference is the water company replenishment obligation for the year, except
15 that if the difference is less than zero, there is no replenishment
16 obligation. For the purposes of this paragraph, stored water does not
17 include any water stored at a storage facility located within an eastern
18 protection zone and recovered within that protection zone.

19 Sec. 13. Section 45-2626, Arizona Revised Statutes, is amended to
20 read:

21 45-2626. Individual replenishment obligations of persons using
22 underground water or stored water within an eastern
23 protection zone or a western protection zone for
24 industrial use; enforcement action; notice

25 A. If there is a municipal and industrial replenishment obligation for
26 the eastern protection zone north for any year, as calculated under section
27 45-2622, subsection B, any person who withdraws underground water or stored
28 water from within that protection zone during the year for an industrial use
29 within an eastern protection zone in an amount that exceeds a volume
30 calculated by multiplying the number of industrial acres associated with the
31 industrial use by three and one-half acre-feet shall have an individual
32 replenishment obligation for that year in the amount of the excess, except
33 that if the industrial use was commenced prior to January 1, 2003, the
34 replenishment obligation shall be limited to the volume of groundwater
35 withdrawn in excess of the amount allowed under the industrial user's type 1
36 nonirrigation grandfathered right, type 2 nonirrigation grandfathered right
37 or general industrial use permit issued under section 45-515. For the
38 purposes of this subsection, stored water does not include any water stored
39 at a storage facility located within the eastern protection zone north ~~or any~~
40 ~~water stored and recovered on an annual basis pursuant to section 45-851.01.~~

41 B. If there is a municipal and industrial replenishment obligation for
42 the eastern protection zone south for any year, as calculated under section
43 45-2622, subsection B, any person who withdraws underground water or stored
44 water from within that protection zone during the year for an industrial use
45 within an eastern protection zone in an amount that exceeds a volume
46 calculated by multiplying the number of industrial acres associated with the

1 industrial use by three and one-half acre-feet shall have an individual
2 replenishment obligation for that year in the amount of the excess, except
3 that if the industrial use was commenced prior to January 1, 2003, the
4 replenishment obligation shall be limited to the volume of groundwater
5 withdrawn in excess of the amount allowed under the industrial user's type 1
6 nonirrigation grandfathered right, type 2 nonirrigation grandfathered right
7 or general industrial use permit issued under section 45-515. For the
8 purposes of this subsection, stored water does not include any water stored
9 at a storage facility located within the eastern protection zone south ~~or any~~
10 ~~water stored and recovered on an annual basis pursuant to section 45-851.01.~~

11 C. If there is a municipal and industrial replenishment obligation for
12 the western municipal and industrial protection zone for any year, as
13 calculated under section 45-2622, subsection B, any person who withdraws
14 underground water or stored water from within that protection zone during the
15 year for an industrial use within that protection zone in an amount that
16 exceeds a volume calculated by multiplying the number of industrial acres
17 associated with the industrial use by three and one-half acre-feet shall have
18 an individual replenishment obligation for that year in the amount of the
19 excess, except that if the industrial use was commenced prior to January 1,
20 2003, the replenishment obligation shall be limited to the volume of
21 groundwater withdrawn in excess of the amount allowed under the industrial
22 user's type 1 nonirrigation grandfathered right, type 2 nonirrigation
23 grandfathered right or general industrial use permit issued under section
24 45-515. For the purposes of this subsection, stored water does not include
25 any water stored at a storage facility located within the western municipal
26 and industrial protection zone ~~or any water stored and recovered on an annual~~
27 ~~basis pursuant to section 45-851.01.~~

28 D. A person who has an individual replenishment obligation under
29 subsection A, B or C of this section shall satisfy the obligation no later
30 than twelve months after the authority sends written notice of the obligation
31 to the person as provided in subsection E of this section. The person shall
32 satisfy the obligation by performing one of the following replenishment
33 activities in an amount equivalent to the replenishment obligation:

34 1. Pay the authority the actual or estimated cost of replenishing the
35 water under section 45-2623, subsection C as determined by the authority and
36 included in the notice described in subsection E of this section.

37 2. If approved by the authority, deliver water or long-term storage
38 credits to the authority in the amount of the replenishment obligation.

39 E. No later than December 31 of each year, the authority shall send
40 written notice to each person who has an individual replenishment obligation
41 for the preceding year. The notice shall be sent by first-class mail to the
42 person's mailing address on file with the department. The notice shall
43 specify the amount of the replenishment obligation, the authority's actual or
44 estimated cost of replenishing the water under section 45-2623, subsection C,
45 the date by which the person must satisfy the replenishment obligation and
46 the manner in which the person may satisfy the replenishment obligation.

1 F. If a person with an individual replenishment obligation fails to
2 satisfy the replenishment obligation by the date specified in the written
3 notice received from the authority, the person shall be subject to an
4 enforcement action by the department pursuant to article 6 of this chapter.

5 G. The director shall include written notice of the requirements of
6 this section in any groundwater withdrawal permit, nonirrigation
7 grandfathered right authorization to drill a nonexempt well under section
8 45-596 or recovery well permit issued in an eastern protection zone or the
9 western municipal and industrial protection zone after the effective date of
10 this section.

11 Sec. 14. Effective date; condition

12 The following are effective as prescribed in Laws 2005, chapter 143,
13 section 15:

14 1. Section 45-611, Arizona Revised Statutes, as amended by Laws 2005,
15 chapter 143, section 1 and this act.

16 2. Section 45-2423, Arizona Revised Statutes, as amended by Laws 2005,
17 chapter 143, section 4 and this act.

18 3. Section 45-2425, Arizona Revised Statutes, as amended by Laws 2005,
19 chapter 143, section 5 and chapter 332, section 1 and this act.

20 4. Section 45-2457, Arizona Revised Statutes, as amended by Laws 2005,
21 chapter 143, section 6 and this act.

22 5. Sections 45-2611, 45-2622 and 45-2626, Arizona Revised Statutes, as
23 amended by this act.

APPROVED BY THE GOVERNOR APRIL 12, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 12, 2006.