

House Engrossed

city water provider; requirements; service

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HOUSE BILL 2561

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.40; REPEALING SECTION 9-500.40, ARIZONA REVISED STATUTES; AMENDING SECTION 11-831, ARIZONA REVISED STATUTES; RELATING TO MUNICIPAL WATER SERVICE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes,
3 is amended by adding section 9-500.40, to read:

4 9-500.40. Water service outside city or town; requirements;
5 standpipe district

6 A. A CITY OR TOWN THAT PROVIDES WATER SERVICE SHALL PROVIDE WATER
7 SERVICE THROUGH AN INTERGOVERNMENTAL AGREEMENT WITH A STANDPIPE DISTRICT
8 FOR A PERIOD OF NOT MORE THAN THREE YEARS BY USE OF A STANDPIPE FOR WATER
9 HAULING TO RESIDENCES OUTSIDE THE CITY'S OR TOWN'S WATER SERVICE AREA THAT
10 DO NOT HAVE ACCESS TO SUFFICIENT WATER IF ALL OF THE FOLLOWING APPLY:

11 1. THE NUMBER OF IMPACTED RESIDENCES TO BE SERVICED IS NOT MORE
12 THAN SEVEN HUNDRED FIFTY AND THE RESIDENCES ARE IN AN AREA THAT IS AN
13 UNINCORPORATED COMMUNITY WITHIN THE STANDPIPE DISTRICT AND ADJACENT TO THE
14 CITY OR TOWN.

15 2. THE CITY OR TOWN PREVIOUSLY PROVIDED WATER SERVICE TO THE
16 RESIDENCES THAT DO NOT HAVE ACCESS TO SUFFICIENT WATER.

17 3. THERE IS NO OTHER ADEQUATE SOURCE OF WATER FOR THOSE PERSONS
18 WITHIN TEN MILES OF THEIR RESIDENCES.

19 4. THE CITY OR TOWN IS REIMBURSED FOR THE FULL REASONABLE COSTS OF
20 PROVIDING AND DELIVERING THE WATER.

21 5. THE IMPACTED AREA IS IN A COUNTY WITH A POPULATION OF MORE THAN
22 SEVEN HUNDRED FIFTY THOUSAND PERSONS.

23 6. PROVIDING THE WATER AT THE STANDPIPE DOES NOT, WITHOUT THE
24 CITY'S OR TOWN'S CONSENT, REDUCE THE AMOUNT OF WATER AVAILABLE TO
25 RESIDENCES AND BUSINESSES WITHIN THE CITY'S OR TOWN'S WATER SERVICE AREA
26 OR TO RESIDENCES AND BUSINESSES OUTSIDE OF THE CITY'S OR TOWN'S WATER
27 SERVICE AREA WITH WHOM THE CITY OR TOWN HAS DIRECTLY CONTRACTED TO PROVIDE
28 WATER THROUGH MEANS OTHER THAN HAULING WATER.

29 B. THE STANDPIPE DISTRICT SHALL ENTER INTO AN INTERGOVERNMENTAL
30 AGREEMENT WITH THE CITY OR TOWN, AND THE INTERGOVERNMENTAL AGREEMENT SHALL
31 PROVIDE THAT THE STANDPIPE DISTRICT AGREES TO BE RESPONSIBLE FOR ALL OF
32 THE FOLLOWING:

33 1. DELIVERING WATER PURSUANT TO THIS SECTION TO WATER HAULERS
34 SERVING MEMBERS OF THE STANDPIPE DISTRICT. SELF HAULING OF WATER IS
35 ALLOWED.

36 2. PAYING THE CITY OR TOWN FOR THE FULL COSTS OF PROVIDING THE
37 WATER TO THE RESIDENCES ELIGIBLE TO RECEIVE WATER SERVICES PURSUANT TO
38 THIS SECTION. THE STANDPIPE DISTRICT MAY DO SO EITHER DIRECTLY OR THROUGH
39 ONE OR MORE THIRD PARTIES.

40 3. BILLING THE RESIDENCES FOR THE COST OF THE WATER BEING
41 RECEIVED. THE STANDPIPE DISTRICT MAY DO SO EITHER DIRECTLY OR THROUGH ONE
42 OR MORE THIRD PARTIES.

43 4. PROVIDING AN ANNUAL AMOUNT OF WATER TO THE RESIDENCES THAT MAY
44 EXCEED THE ANNUAL AMOUNT OF WATER THE RESIDENCES IN THE AREA PRESCRIBED BY
45 THIS SECTION PREVIOUSLY RECEIVED IF THE ADDITIONAL AMOUNTS DO NOT VIOLATE

1 SUBSECTION A, PARAGRAPH 6 OF THIS SECTION. THE STANDPIPE DISTRICT MAY
2 PROVIDE THE WATER THROUGH ONE OR MORE THIRD PARTIES.

3 5. IF THE ANNUAL AMOUNT OF WATER PROVIDED PURSUANT TO THE
4 INTERGOVERNMENTAL AGREEMENT IS EXCEEDED, SUSPENDED OR REDUCED,
5 IMPLEMENTING AND ENFORCING ANY NECESSARY WATER CONSERVATION MEASURES.

6 6. WORKING TO IDENTIFY A LONG-TERM SOLUTION FOR THE WATER NEEDS OF
7 THE AREA PRESCRIBED BY THIS SECTION.

8 C. THE INTERGOVERNMENTAL AGREEMENT EXECUTED PURSUANT TO THIS
9 SECTION SHALL INDEMNIFY THE CITY OR TOWN WITH RESPECT TO ANY ACTIONS TAKEN
10 OR OCCURRENCES AFTER WATER IS PROVIDED AT THE STANDPIPE.

11 D. THE PROVISION OF WATER PURSUANT TO THIS SECTION AND THE
12 INTERGOVERNMENTAL AGREEMENT AUTHORIZED BY THIS SECTION ARE CONTINGENT ON A
13 STANDPIPE DISTRICT OBTAINING A SOURCE OF WATER FROM A THIRD PARTY ABSENT A
14 CITY'S OR TOWN'S CONSENT TO USE THE CITY'S OR TOWN'S OWN SOURCE OF WATER.

15 E. NOT MORE THAN SEVEN HUNDRED FIFTY RESIDENCES SHALL BE ALLOWED TO
16 RECEIVE WATER FROM ANY STANDPIPE DISTRICT.

17 F. A CITY OR TOWN MAY REDUCE OR SUSPEND THE AMOUNT OF WATER
18 PROVIDED PURSUANT TO THIS SECTION IF WATER BECOMES UNAVAILABLE FROM A
19 THIRD PARTY.

20 G. A CITY OR TOWN IS NOT LIABLE TO ANY PERSON OR ENTITY FOR
21 PROVIDING OR FAILING TO PROVIDE WATER PURSUANT TO THIS SECTION.

22 H. THIS SECTION DOES NOT PRECLUDE EXECUTION OR IMPLEMENTATION OF A
23 VOLUNTARY AGREEMENT BEFORE THE EFFECTIVE DATE OF THIS SECTION. THIS
24 SECTION DOES NOT APPLY IF SUCH A VOLUNTARY AGREEMENT RESULTS IN ADEQUATE
25 WATER BEING SUPPLIED TO THE RESIDENCES THAT WOULD OTHERWISE BE SERVED.

26 I. PROPERTY OWNERS IN THE IMPACTED AREA MAY JOIN, OR NOT JOIN, THE
27 STANDPIPE DISTRICT. THE STANDPIPE DISTRICT SHALL ONLY PROVIDE WATER TO
28 THE MEMBERS OF THE STANDPIPE DISTRICT.

29 J. THE STANDPIPE DISTRICT SHALL BE GOVERNED BY A FIVE-PERSON BOARD
30 OF DIRECTORS WHO SHALL BE MEMBERS OF THE STANDPIPE DISTRICT ON OR BEFORE
31 TAKING OFFICE. APPOINTMENTS SHALL BE MADE WITHIN FOURTEEN DAYS OF THE
32 OCCURRENCE OF THE CONDITIONS IN SUBSECTION A OF THIS SECTION, OR IF SUCH
33 CONDITIONS ALREADY EXIST AS OF THE EFFECTIVE DATE OF THIS SECTION, WITHIN
34 FOURTEEN DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION. THE STANDPIPE
35 DISTRICT BOARD SHALL CONSIST OF THE FOLLOWING MEMBERS:

36 1. ONE MEMBER WHO IS APPOINTED BY THE SPEAKER OF THE HOUSE OF
37 REPRESENTATIVES.

38 2. ONE MEMBER WHO IS APPOINTED BY THE PRESIDENT OF THE SENATE.

39 3. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR AND WHO SERVES AT
40 THE PLEASURE OF THE GOVERNOR.

41 4. ONE MEMBER WHO IS APPOINTED BY THE COMMISSIONER OF THE STATE
42 REAL ESTATE DEPARTMENT AND WHO SERVES AT THE PLEASURE OF THE COMMISSIONER
43 OF THE STATE REAL ESTATE DEPARTMENT.

1 5. ONE MEMBER WHO IS APPOINTED BY THE DIRECTOR OF THE DEPARTMENT OF
2 WATER RESOURCES AND WHO SERVES AT THE PLEASURE OF THE DIRECTOR OF THE
3 DEPARTMENT OF WATER RESOURCES.

4 K. EACH STANDPIPE DISTRICT SHALL HAVE NO POWERS OTHER THAN THOSE
5 EXPRESSLY CONTEMPLATED BY THIS SECTION. THE STANDPIPE DISTRICT MAY LEVY A
6 REASONABLE AND MINIMAL SURCHARGE ON THE PRICE OF WATER TO REIMBURSE THE
7 STANDPIPE DISTRICT FOR COSTS OF BILLING AND ADMINISTRATION AND OTHER
8 REASONABLE EXPENSES. THE SURCHARGE SHALL NOT EXCEED TEN PERCENT OF A
9 CUSTOMER'S BILL WITHOUT THE UNANIMOUS APPROVAL OF THE BOARD OF THE
10 STANDPIPE DISTRICT.

11 L. A STANDPIPE DISTRICT IS NOT SUBJECT TO EMINENT DOMAIN PURSUANT
12 TO SECTION 9-516.

13 M. IN THE EVENT THAT THE CONDITIONS SET FORTH IN SUBSECTION A OF
14 THIS SECTION APPLY TO AN AREA, A STANDPIPE DISTRICT IN THE IMPACTED AREA
15 BEGINS TO EXIST WHEN A MAJORITY OF MEMBERS OF ITS BOARD ARE APPOINTED. A
16 STANDPIPE DISTRICT TERMINATES ON THE REPEAL OF THIS SECTION.

17 Sec. 2. Delayed repeal

18 Section 9-500.40, Arizona Revised Statutes, as added by this act, is
19 repealed from and after December 31, 2025.

20 Sec. 3. Section 11-831, Arizona Revised Statutes, is amended to
21 read:

22 11-831. Review of land divisions; definitions

23 A. The board of supervisors of each county may adopt ordinances and
24 regulations pursuant to this section for staff review and approval of land
25 divisions of five or fewer lots, parcels or fractional interests, any of
26 which is ten acres or smaller in size. The county may not deny approval
27 of any land division that meets the requirements of this section. If **THE**
28 **COUNTY'S** review of the request is not completed within thirty days after
29 receiving the request, the land division is considered to be approved. At
30 its option, the board of supervisors may submit a ballot question to the
31 voters of the county to allow the voters to determine the application of
32 subsections B and C **OF THIS SECTION** to qualifying land divisions in that
33 county.

34 B. An application to split a parcel of land shall be approved if:

35 1. The lots, parcels or fractional interests each meet the minimum
36 applicable county zoning requirements of the applicable zoning
37 designation.

38 2. The applicant provides a standard preliminary title report or
39 other acceptable document that demonstrates legal access to the lots,
40 parcels or fractional interests.

41 3. The applicant provides a statement from a licensed surveyor or
42 engineer, or other evidence acceptable to the county, stating whether each
43 lot, parcel or fractional interest has physical access that is traversable
44 by a two-wheel drive passenger motor vehicle.

1 4. The applicant reserves the necessary and appropriate utility
2 easements to serve each lot, parcel or fractional interest created by the
3 land division.

4 C. An application to split a parcel of land that does not comply
5 with one or more of the items listed in subsection B OF THIS SECTION shall
6 still be approved if the applicant provides an acknowledgment that is
7 signed by the applicant and that confirms that ~~no~~ A building or use permit
8 will NOT be issued by the county until the lot, parcel or fractional
9 interest has met the requirements of subsection B OF THIS SECTION. The
10 county may grant a variance from one or more of the items listed in
11 subsection B OF THIS SECTION.

12 D. Any approval of a land division under this section may:

13 1. Include the minimum statutory requirements for legal and
14 physical on-site access that must be met as a condition to the issuance of
15 a building or use permit for the lots, parcels or fractional interests.

16 2. Identify topographic, hydrologic or other site constraints,
17 requirements or limitations that must be addressed as conditions to the
18 eventual issuance of a building or use permit. These constraints,
19 requirements or limitations may be as noted by the applicant or through
20 county staff review, but there shall be no requirement for independent
21 studies.

22 E. If the requirements of subsections A through D OF THIS SECTION
23 do not apply, a county may adopt ordinances and regulations pursuant to
24 this chapter for staff review of land divisions of five or fewer lots,
25 parcels or fractional interests but only to determine compliance with
26 minimum applicable county zoning requirements and legal access and may
27 grant waivers from the county zoning and legal access requirements. The
28 county may not deny approval of any land division that meets the
29 requirements of this section or where the deficiencies are noticed in the
30 deed. A county may not require a public hearing on a request to divide
31 five or fewer lots, parcels or fractional interests. If review of the
32 request is not completed within thirty days ~~from~~ AFTER receipt of the
33 request, the land division shall be deemed approved. If ~~no~~ legal access
34 is NOT available, the legal access does not allow access by emergency
35 vehicles or the county zoning requirements are not met, the access or
36 zoning deficiencies shall be noticed in the deed. If a county by
37 ordinance requires a legal access of more than twenty-four feet roadway
38 width, the county is responsible for the improvement and maintenance of
39 the improvement. If the legal access does not allow access to the lots,
40 parcels or fractional interests by emergency vehicles, neither the county
41 nor its agents or employees are liable for damages resulting from the
42 failure of emergency vehicles to reach the lot, parcel or fractional
43 interest.

1 F. It is unlawful for a person or group of persons acting in
2 concert to attempt to avoid this section or the subdivision laws of this
3 state by ~~acting in concert~~ PURSUING A COMMON PLAN OR DESIGN to divide a
4 parcel of land into six or more lots or sell or lease six or more lots by
5 using a series of owners or conveyances. A PERSON OR GROUP OF PERSONS
6 PURSUES SUCH A COMMON PLAN OR DESIGN WHEN THE PERSON OR GROUP OF PERSONS
7 EITHER:

8 1. ACT IN CONCERT TO ALLOW ONE OR MORE PERSONS TO DEVELOP SIX OR
9 MORE LOTS WITHIN A TEN-YEAR PERIOD OF TIME WITHOUT COMPLIANCE WITH THE
10 SUBDIVISION LAWS OF THIS STATE.

11 2. DEVELOP SIX OR MORE LOTS WITHIN A TEN-YEAR PERIOD BY USING
12 ENTITIES WITH COMMON OWNERSHIP OR CONTROL WITHOUT COMPLIANCE WITH THE
13 SUBDIVISION LAWS OF THIS STATE.

14 3. PARAGRAPHS 1 AND 2 OF THIS SUBSECTION DO NOT APPLY IF THE LOTS
15 IN QUESTION ARE NON-CONTIGUOUS SEPARATE PARCELS AND ARE NOT BEING DIVIDED
16 BY A GROUP OF PERSONS ACTING IN CONCERT AS PART OF A COMMON PROMOTIONAL
17 PLAN.

18 G. Either the county where the division occurred or the state real
19 estate department pursuant to title 32, chapter 20, but not both, may
20 enforce ~~this prohibition~~ SUBSECTION F OF THIS SECTION. A familial
21 relationship alone is not sufficient to constitute unlawful acting in
22 concert.

23 ~~G.~~ H. For any subdivision that consists of ten or fewer lots,
24 tracts or parcels, each of which is of a size as prescribed by the board
25 of supervisors, the board of supervisors of each county may waive the
26 requirement to prepare, submit and receive approval of a preliminary plat
27 as a condition precedent to submitting a final plat and may waive or
28 reduce infrastructure standards or requirements except for improved
29 dust-controlled access and minimum drainage improvements.

30 ~~H.~~ I. For the purposes of this section:

31 1. "Legal access" means a public right of vehicular ingress and
32 egress between the lots, parcels or fractional interests being created.

33 2. "Minimum applicable county zoning requirements" means the
34 minimum acreage and dimensions of the resulting lot, parcel or fractional
35 interest as required by the county's zoning ordinance.

36 3. "Utility easement" means an easement of eight feet in width
37 dedicated to the general public to install, maintain and access sewer,
38 electric, gas and water utilities.

39 Sec. 4. Emergency

40 This act is an emergency measure that is necessary to preserve the
41 public peace, health or safety and is operative immediately as provided by
42 law.