

REFERENCE TITLE: exempt wells; metering; reporting

State of Arizona  
Senate  
Fifty-sixth Legislature  
First Regular Session  
2023

# **SB 1521**

Introduced by  
Senators Sundareshan: Hernandez, Marsh, Mendez, Terán

AN ACT

AMENDING SECTIONS 45-454 AND 45-632, ARIZONA REVISED STATUTES; RELATING TO  
THE GROUNDWATER CODE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-454, Arizona Revised Statutes, is amended to  
3 read:

4 45-454. Exemption of small non-irrigation wells; definitions

5 A. Withdrawals of groundwater for non-irrigation uses from wells  
6 having a pump with a maximum capacity of not more than thirty-five gallons  
7 per minute ~~which~~ THAT were drilled before April 28, 1983 or ~~which~~ THAT  
8 were drilled after April 28, 1983 pursuant to a notice of intention to  
9 drill ~~which~~ THAT was on file with the department on such date are exempt  
10 from this chapter, except that:

11 1. Wells drilled before June 12, 1980 ~~which~~ THAT are not abandoned  
12 or capped or wells ~~which~~ THAT were not completed on June 12, 1980 but for  
13 which a notice of intention to drill was on file with the Arizona water  
14 commission on such date are subject to subsections J, K and L of this  
15 section and must be registered pursuant to section 45-593. If two or more  
16 wells in an active management area are exempt under this paragraph and are  
17 used to serve the same non-irrigation use at the same location, the  
18 aggregate quantity of groundwater withdrawn from the wells shall not  
19 exceed fifty-six acre-feet per year.

20 2. Wells drilled between June 12, 1980 and April 28, 1983, except  
21 as provided in paragraph 1 of this subsection, and wells drilled after  
22 April 28, 1983 pursuant to a notice of intention to drill ~~which~~ THAT was  
23 on file with the department on April 28, 1983, are subject to subsections  
24 G, I, J and K of this section.

25 3. WELLS WITH A MAXIMUM CAPACITY OF NOT MORE THAN THIRTY-FIVE  
26 GALLONS PER MINUTE ARE NO LONGER EXEMPT FROM THIS CHAPTER BEGINNING  
27 JANUARY 1, 2028, UNLESS THE PERSON WHO WITHDRAWS THE GROUNDWATER FROM THE  
28 WELL COMPLIES WITH PARAGRAPH 4 OF THIS SUBSECTION.

29 4. WELLS WITH A MAXIMUM CAPACITY OF NOT MORE THAN THIRTY-FIVE  
30 GALLONS PER MINUTE ARE NO LONGER EXEMPT FROM THIS CHAPTER BEGINNING  
31 JANUARY 1, 2033 IF THE PERSON WHO WITHDRAWS GROUNDWATER FROM THE WELL  
32 INSTALLS A WATER MEASURING DEVICE THAT COMPLIES WITH RULES ADOPTED BY THE  
33 DIRECTOR PURSUANT TO SECTION 45-604, MAINTAINS CURRENT ACCURATE RECORDS  
34 AND FILES ANNUAL REPORTS WITH THE DIRECTOR PURSUANT TO SECTION 45-632.  
35 THE PERSON WHO WITHDRAWS THE GROUNDWATER MUST INSTALL THE WATER MEASURING  
36 DEVICE, MAINTAIN THE RECORDS AND FILE THE ANNUAL REPORTS BEGINNING NOT  
37 LATER THAN JANUARY 1, 2025.

38 B. Withdrawals of groundwater for non-irrigation uses from wells  
39 having a pump with a maximum capacity of not more than thirty-five gallons  
40 per minute drilled on or after April 28, 1983, except wells drilled after  
41 April 28, 1983 pursuant to a notice of intention to drill ~~which~~ THAT was  
42 on file with the department on such date, are exempt from this chapter,  
43 except that:

44 1. ~~Such~~ THOSE wells are subject to subsections G through K of this  
45 section.

1           2. In an active management area, other than a subsequent active  
2 management area designated for a portion of a groundwater basin in the  
3 regional aquifer systems of northern Arizona, withdrawals of groundwater  
4 from ~~such~~ THOSE wells for non-irrigation uses other than domestic purposes  
5 and stock watering shall not exceed ten acre-feet per year.

6           3. In a subsequent active management area that is designated for a  
7 portion of a groundwater basin in the regional aquifer systems of northern  
8 Arizona, groundwater withdrawn from ~~such~~ THOSE wells may be used only for  
9 domestic purposes and stock watering.

10          4. WELLS WITH A MAXIMUM CAPACITY OF NOT MORE THAN THIRTY-FIVE  
11 GALLONS PER MINUTE ARE NO LONGER EXEMPT FROM THIS CHAPTER BEGINNING  
12 JANUARY 1, 2028, UNLESS THE PERSON WHO WITHDRAWS THE GROUNDWATER FROM THE  
13 WELL COMPLIES WITH PARAGRAPH 4 OF THIS SUBSECTION.

14          5. WELLS WITH A MAXIMUM CAPACITY OF NOT MORE THAN THIRTY-FIVE  
15 GALLONS PER MINUTE ARE NO LONGER EXEMPT FROM THIS CHAPTER BEGINNING  
16 JANUARY 1, 2033 IF THE PERSON WHO WITHDRAWS GROUNDWATER FROM THE WELL  
17 INSTALLS A WATER MEASURING DEVICE THAT COMPLIES WITH RULES ADOPTED BY THE  
18 DIRECTOR PURSUANT TO SECTION 45-604, MAINTAINS CURRENT ACCURATE RECORDS  
19 AND FILES ANNUAL REPORTS WITH THE DIRECTOR PURSUANT TO SECTION 45-632.  
20 THE PERSON WHO WITHDRAWS THE GROUNDWATER MUST INSTALL THE WATER MEASURING  
21 DEVICE, MAINTAIN THE RECORDS AND FILE THE ANNUAL REPORTS BEGINNING NOT  
22 LATER THAN JANUARY 1, 2025.

23          C. On or after January 1, 2006, an exempt well otherwise allowed by  
24 this section may not be drilled on land if any part of the land is within  
25 one hundred feet of the operating water distribution system of a municipal  
26 provider with an assured water supply designation within the boundaries of  
27 an active management area established on or before July 1, 1994, as shown  
28 on a digitized service area map provided to the director by the municipal  
29 provider and updated by the municipal provider as specified by the  
30 director.

31          D. On request from the owner of the land on which an exempt well is  
32 prohibited pursuant to subsection C of this section on a form prescribed  
33 by the director, the director shall issue an exemption from subsection C  
34 of this section if the landowner demonstrates to the satisfaction of the  
35 director that any of the following applies:

36           1. The landowner submitted a written request for service to the  
37 municipal provider that operates the distribution system and the municipal  
38 provider did not provide written verification to the landowner within  
39 thirty calendar days after receipt of the request that water service is  
40 available to the landowner after payment of any applicable fee to the  
41 municipal provider.

42           2. The total capital cost and fees for connecting to the operating  
43 water distribution system exceed the total capital cost and fees for  
44 drilling and fully equipping an exempt well.

1           3. If the applicant must obtain an easement across other land to  
2 connect to the water distribution system of the municipal provider, the  
3 applicant sent the owner of the land a request for the easement by  
4 certified mail, return receipt requested, and either the applicant did not  
5 receive a response to the request within thirty calendar days of mailing  
6 the request or the request was denied.

7           4. The landowner does not qualify for an exemption pursuant to  
8 paragraph 1, 2 or 3 of this subsection and the landowner provides written  
9 verification from the municipal provider that the landowner shall not  
10 receive or request water service from the municipal provider while the  
11 exempt well is operational. The exemption for that well is revoked if the  
12 landowner or any subsequent landowner receives water service from the  
13 municipal provider. In determining whether to approve or reject a permit  
14 application filed under section 45-599, the director shall not consider  
15 any impacts the proposed well may have on an exempt well drilled pursuant  
16 to this paragraph.

17           E. This section does not prohibit a property owner, after January  
18 1, 2006, from drilling a replacement exempt well for a lawful exempt well  
19 if the replacement well does not increase the total number of operable  
20 exempt wells on the applicant's land.

21           F. A remediation well drilled for the purpose of remediating  
22 groundwater is exempt from this section if it meets one of the following:

23           1. The remediation well is for an approved department of  
24 environmental quality or United States environmental protection agency  
25 remediation program.

26           2. A registered geologist certifies that the remediation well is  
27 for the purpose of remediation.

28           G. A person shall file a notice of intention to drill with the  
29 director pursuant to section 45-596 before drilling an exempt well or  
30 causing an exempt well to be drilled.

31           H. The registered well owner shall file a completion report  
32 pursuant to section 45-600, subsection B.

33           I. In an active management area only one exempt well may be drilled  
34 or used to serve the same non-irrigation use at the same location, except  
35 that a person may drill or use a second exempt well to serve the same  
36 non-irrigation use at the same location if the director determines that  
37 all of the following apply:

38           1. Because of its location, the first exempt well is not capable of  
39 consistently producing more than three gallons per minute of groundwater  
40 when equipped with a pump with a maximum capacity of thirty-five gallons  
41 per minute.

42           2. The second exempt well is located on the same parcel of land as  
43 the first exempt well, the parcel of land is at least one acre in size,  
44 all groundwater withdrawn from both exempt wells is used on that parcel of  
45 land and there are no other exempt wells on that parcel of land.

1           3. Combined withdrawals from both wells do not exceed five  
2 acre-feet per year.

3           4. If the second exempt well is drilled after January 1, 2000, the  
4 county health authority for the county in which the well is located or any  
5 other local health authority that controls the installation of septic  
6 tanks or sewer systems in the county has approved the location of the well  
7 in writing after physically inspecting the well site.

8           5. Use of two wells for the same non-irrigation use at the same  
9 location is not contrary to the health and welfare of the public.

10          J. An exempt well is subject to sections 45-594 and 45-595.

11          K. Groundwater withdrawn from an exempt well may be transported  
12 only pursuant to articles 8 and 8.1 of this chapter.

13          L. A person who owns land from which exempt withdrawals were being  
14 made as of the date of the designation of the active management area is  
15 not eligible for a certificate of grandfathered right for a type 2 non-  
16 irrigation use for such withdrawals.

17          M. For the purposes of this section:

18           1. "Domestic purposes" means uses related to the supply, service  
19 and activities of households and private residences and includes the  
20 application of water to less than two acres of land to produce plants or  
21 parts of plants for sale or human consumption, or for use as feed for  
22 livestock, range livestock or poultry, as such terms are defined in  
23 section 3-1201.

24           2. "Municipal provider" means a city, town, private water company  
25 or irrigation district that supplies water for non-irrigation use.

26           3. "Stock watering" means the watering of livestock, range  
27 livestock or poultry, as such terms are defined in section 3-1201.

28          Sec. 2. Section 45-632, Arizona Revised Statutes, is amended to  
29 read:

30          45-632. Records and annual report of groundwater pumping,  
31                 transportation and use; penalty

32          A. Each person who is required to file an annual report under this  
33 section or who files an annual report under SECTION 45-454 OR subsection E  
34 of this section shall maintain current accurate records of the person's  
35 withdrawals, transportation, deliveries and use of groundwater and, in the  
36 Santa Cruz active management area, current accurate records of the  
37 person's withdrawals, deliveries and use of all water withdrawn from a  
38 well, as prescribed by the director under subsection P of this section.

39          B. Except as provided in subsections C and D of this section, an  
40 annual report shall be filed with the director by each person who:

41           1. Owns or leases a right under this chapter to withdraw, receive  
42 or use groundwater in an active management area, unless a report is filed  
43 for that person by an irrigation district under subsection E of this  
44 section or by another person in a form acceptable to the director.

1           2. Uses groundwater ~~which~~ THAT is transported from an active  
2 management area.

3           3. Is an individual user subject to a municipal conservation  
4 requirement for appropriate conservation measures included in a management  
5 plan adopted by the director pursuant to article 9 of this chapter.

6           4. Withdraws groundwater for transportation to an initial active  
7 management area pursuant to article 8.1 of this chapter.

8           5. Withdraws water from a well in the Santa Cruz active management  
9 area or who uses water, other than stored water, withdrawn from a  
10 ~~non-exempt~~ NONEXEMPT well in the Santa Cruz active management area.

11           C. Persons who withdraw groundwater from exempt wells and  
12 non-irrigation customers of cities, towns, private water companies and  
13 irrigation districts, ~~except customers receiving water pursuant to a~~  
14 ~~permit~~, are exempt from the ~~record keeping~~ RECORDKEEPING and reporting  
15 requirements of this section for such water, EXCEPT:

16           1. PERSONS WHO WITHDRAW GROUNDWATER FROM A WELL THAT IS NO LONGER  
17 AN EXEMPT WELL AS PRESCRIBED BY SECTION 45-454, SUBSECTION A, PARAGRAPH 4  
18 OR SUBSECTION B, PARAGRAPH 5.

19           2. NON-IRRIGATION CUSTOMERS OF CITIES, TOWNS, PRIVATE WATER  
20 COMPANIES AND IRRIGATION DISTRICTS WHO RECEIVE WATER PURSUANT TO A PERMIT.

21           D. A person who owns or leases an irrigation grandfathered right  
22 that is appurtenant to ten or fewer irrigation acres is exempt from the  
23 record keeping and reporting requirements of this section for the  
24 irrigation grandfathered right unless one of the following applies:

25           1. The land to which the irrigation grandfathered right is  
26 appurtenant is part of an integrated farming operation.

27           2. Groundwater is withdrawn from the land to which the irrigation  
28 grandfathered right is appurtenant and delivered for use pursuant to  
29 either a service area right pursuant to article 6 of this chapter or a  
30 grandfathered groundwater right other than an irrigation grandfathered  
31 right that is appurtenant to irrigation acres that are exempt from  
32 irrigation water duties pursuant to section 45-563.02.

33           3. Groundwater is withdrawn from land that is both owned by the  
34 owner of the irrigation grandfathered right and contiguous to the land to  
35 which the irrigation grandfathered right is appurtenant and delivered for  
36 use pursuant to either a service area right pursuant to article 6 of this  
37 chapter or a grandfathered groundwater right other than an irrigation  
38 grandfathered right that is appurtenant to irrigation acres that are  
39 exempt from irrigation water duties pursuant to section 45-563.02.

40           E. An irrigation district ~~which~~ THAT delivers and distributes  
41 groundwater in an active management area may file an annual report with  
42 the director for each person who holds an irrigation grandfathered right  
43 appurtenant to irrigation acres within the service area of the irrigation  
44 district, if the irrigation district delivers all the water used on the  
45 person's irrigation acres. If an irrigation district files an annual

1 report for such a person, the irrigation district shall report the  
2 following information for each such person:

3 1. The name of the person and the certificate number of the  
4 person's irrigation grandfathered right.

5 2. The quantity of groundwater, if any, delivered during the  
6 calendar year.

7 F. Persons who are required to report under subsection B, paragraph  
8 1 of this section and who withdraw groundwater during the calendar year in  
9 an active management area AND PERSONS WHO ARE REQUIRED TO REPORT UNDER  
10 SECTION 45-454, SUBSECTION A, PARAGRAPH 4 OR SUBSECTION B, PARAGRAPH 5 AND  
11 WHO WITHDRAW GROUNDWATER DURING THE CALENDAR YEAR IN AN ACTIVE MANAGEMENT  
12 AREA shall report the following information for each well:

13 1. The registration number and location of the well.

14 2. The quantity of groundwater withdrawn from the well during the  
15 calendar year. A person who, under section 45-604, subsection B, is not  
16 required to use and does not use a water measuring device to measure  
17 withdrawals made pursuant to a type 2 non-irrigation grandfathered right  
18 or a groundwater withdrawal permit shall estimate the quantity of  
19 groundwater withdrawn pursuant to the grandfathered right or withdrawal  
20 permit.

21 3. The quantity of fuel or electricity consumed by the pump during  
22 the calendar year.

23 4. The uses to which the groundwater was applied or the persons to  
24 whom the groundwater was delivered during the calendar year.

25 G. Persons who are required to report under subsection B, paragraph  
26 1 of this section and who use groundwater during the calendar year in an  
27 active management area, and persons who are required to report under  
28 subsection B, paragraph 2 of this section AND PERSONS WHO ARE REQUIRED TO  
29 REPORT UNDER SECTION 45-454, SUBSECTION A, PARAGRAPH 4 OR SUBSECTION B,  
30 PARAGRAPH 5 AND WHO WITHDRAW GROUNDWATER DURING THE CALENDAR YEAR IN AN  
31 ACTIVE MANAGEMENT AREA shall report the following information:

32 1. The source of the groundwater, including:

33 (a) The name of the person from whom the groundwater was obtained.

34 (b) The registration number and location of the well, if known.

35 2. The quantity of groundwater used during the calendar year.

36 3. The specific uses to which the groundwater was applied during  
37 the calendar year.

38 H. Persons who are required to report under subsection B, paragraph  
39 4 of this section and who transport groundwater during the calendar year  
40 to an initial active management area under article 8.1 of this chapter  
41 shall report the following information:

42 1. The registration number and location of each well.

43 2. The quantity of groundwater withdrawn from each well during the  
44 calendar year.

- 1           3. The quantity of groundwater transported during the calendar year  
2 to an initial active management area.
- 3           4. The quantity of groundwater that was withdrawn during the  
4 calendar year and that was not transported to an initial active management  
5 area and the uses to which the groundwater was applied.
- 6           5. The quantity of fuel or electricity consumed by each pump during  
7 the calendar year.
- 8           6. The uses to which the groundwater was applied or the persons to  
9 whom the groundwater was delivered during the calendar year.
- 10          I. Persons who are required to report under subsection B, paragraph  
11 1 of this section and who neither withdraw nor use groundwater during the  
12 calendar year shall report the following information:
- 13           1. The fact that no groundwater was withdrawn or used during the  
14 calendar year.
- 15           2. The registration number and location of each well, if any.
- 16          J. Persons who are required to report under subsection B, paragraph  
17 5 of this section and who withdraw water from a ~~non-exempt~~ NONEXEMPT well  
18 in the Santa Cruz active management area during the calendar year shall  
19 report the following information:
- 20           1. The registration number and location of the well.
- 21           2. The quantity of water, by type, withdrawn from the well during  
22 the calendar year.
- 23           3. The quantity of fuel or electricity consumed by the pump during  
24 the calendar year.
- 25           4. The uses to which the water was applied or the persons to whom  
26 the water was delivered during the calendar year.
- 27          K. Persons who are required to report under subsection B, paragraph  
28 5 of this section and who use water withdrawn from a ~~non-exempt~~ NONEXEMPT  
29 well in the Santa Cruz active management area during the calendar year  
30 shall report the following information:
- 31           1. The source of the water, including:
- 32           (a) The name of the person from whom the water was obtained.
- 33           (b) The registration number and location of the well, if known.
- 34           2. The quantity of the water, by type, used during the calendar  
35 year.
- 36           3. The specific uses to which the water was applied during the  
37 calendar year.
- 38          L. If a person both withdraws groundwater in an active management  
39 area and uses such water, the person may combine the information required  
40 by subsections F and G of this section into one report. If a person both  
41 withdraws water, other than stored water, from a non-exempt well in the  
42 Santa Cruz active management area and uses such water, the person may  
43 combine the information required by subsections J and K of this section  
44 into one report.



1 M. The director may require such other information in the report as  
2 may be necessary to accomplish the management goals of the applicable  
3 active management area.

4 N. Each report shall contain either a sworn statement or a  
5 certification, under penalty of perjury, that the information contained in  
6 the report is true and correct according to the best belief and knowledge  
7 of the person filing the report.

8 O. The annual report shall be maintained on a calendar year basis  
9 and shall be filed with the director no later than March 31 of each year  
10 for the preceding calendar year. If a person who is required under this  
11 section to file an annual report for calendar year 1985 or any subsequent  
12 calendar year fails to file a report for the calendar year in question on  
13 or before March 31 of the following year, the director may assess and  
14 collect a penalty of ~~twenty-five dollars~~ \$25 for each month or portion of  
15 a month that the annual report is delinquent. The total penalty assessed  
16 under this subsection shall not exceed ~~one hundred fifty dollars~~ \$150.  
17 The director shall deposit, pursuant to sections 35-146 and 35-147, all  
18 penalties collected under this subsection in the state general fund.

19 P. The records and reports required to be kept and filed under this  
20 section shall be in such form as the director prescribes. The director  
21 shall prepare blank forms and distribute them on a timely schedule  
22 throughout each active management area and furnish them upon  
23 request. Failure to receive or obtain the forms does not relieve any  
24 person from keeping the required records or making any required  
25 report. The director shall cooperate with cities and towns, private water  
26 companies and irrigation districts in establishing the form of the records  
27 and reports to be kept and filed by them.