

PROPOSED

SENATE AMENDMENTS TO S.B. 1660

(Reference to printed bill)

1 Page 1, line 17, strike ", OTHER THAN WATER"; after "IS" insert "NOT"

2 Line 19, after "FACILITY" insert "THAT IS LOCATED WITHIN THE SERVICE AREA OF A
3 WASTEWATER PROVIDER THAT HOLDS A CERTIFICATE OF CONVENIENCE AND NECESSITY
4 ISSUED BY THE CORPORATION COMMISSION "

5 Line 21, after "2" insert "AS DETERMINED BY THE DEPARTMENT OF ENVIRONMENTAL
6 QUALITY. SUCH WATER REMAINS EFFLUENT UNTIL IT ACQUIRES THE CHARACTERISTICS
7 OF GROUNDWATER OR SURFACE WATER"

8 Page 2, strike lines 5 through 24, insert:

9 "Sec. 2. Section 45-831.01, Arizona Revised Statutes, is amended to
10 read:

11 45-831.01. Water storage permits

12 A. A person may apply to the director for a water storage permit and
13 may store water at a storage facility only pursuant to a water storage
14 permit.

15 B. The director may issue a water storage permit to store water at a
16 storage facility if the director determines that all of the following
17 apply:

18 1. The applicant has a right to use the proposed source of
19 water. Any determination made by the director for purposes of this
20 subsection regarding the validity, nature, extent or relative priority of a
21 water right claimed by the applicant or another person is not binding in
22 any other administration proceeding or in any judicial proceeding.

1 2. The applicant has applied for any water quality permit required
2 by the department of environmental quality under title 49, chapter 2,
3 article 3 and by federal law.

4 3. The water storage will occur at a permitted storage facility.

5 4. IF THE WATER TO BE STORED IS EFFLUENT AS DEFINED IN SECTION
6 45-101, PARAGRAPH 4, SUBDIVISION (b), THE EFFLUENT WILL BE STORED AT A
7 CONSTRUCTED UNDERGROUND STORAGE FACILITY AT THE SITE WHERE THE WATER WAS
8 USED BEFORE TREATMENT.

9 C. In addition to the requirements of subsection B of this section,
10 if the applicant has applied for a water storage permit to store water at a
11 groundwater savings facility, the director shall not issue the water
12 storage permit unless the applicant has agreed in writing to comply with
13 the plan by which the quantity of groundwater saved at the facility will be
14 proved each year.

15 D. If the director issues a water storage permit, the director may
16 make, if possible, the following determinations:

17 1. Whether the water to be stored is water that cannot reasonably be
18 used directly by the applicant and otherwise meets the requirements of
19 section 45-852.01 for long-term storage credits.

20 2. If use of the water to be stored is appurtenant to a particular
21 location, and if so, where the water may be legally used after
22 recovery. Any determination made by the director for purposes of this
23 subsection regarding the validity, nature, extent or relative priority of a
24 water right claimed by the applicant or another person is not binding in
25 any other administrative proceeding or in any judicial proceeding.

26 E. The director may issue a water storage permit for a period of not
27 more than fifty years, except that:

28 1. On request of the holder of the permit, the director may renew
29 the permit if the director determines that the requirements of subsection B
30 of this section apply and, if the requirement of subsection C of this
31 section applied at the time of issuance, that the requirement of subsection
32 C of this section applies at the time of renewal.

1 2. Subject to the provisions of this chapter, the holder of long-
2 term storage credits earned pursuant to the permit may recover the water
3 over a period longer than the duration of the permit.

4 F. The holder of a water storage permit may apply to the director
5 for approval to convey the permit to another person. The director may
6 approve the conveyance if the director determines that the person to whom
7 the permit is to be conveyed and the water storage will continue to meet
8 the applicable requirements of this section. If long-term storage credits
9 accrued pursuant to the water storage permit are being assigned pursuant to
10 section 45-854.01 with the water storage permit, the director shall be
11 given notice of the impending assignment of long-term storage credits at
12 the time the holder of the water storage permit applies to convey the
13 permit.

14 G. A person who holds a water storage permit may apply to the
15 director on a form approved by the director for a modification of that
16 water storage permit. The director may modify the permit within twenty
17 days ~~of~~ AFTER receiving the application without complying with section
18 45-871.01 if all of the following apply:

19 1. The holder of the storage facility permit with which the water
20 storage permit is affiliated has consented to the modification.

21 2. The modification to the water storage permit does not require a
22 modification of the affiliated water storage facility permit.

23 3. The only modification requested is to add an amount of Colorado
24 river water as a type of water to be stored under the water storage permit.

25 4. Water storage of Colorado river water has previously been
26 permitted at the affiliated storage facility.

27 5. The person requesting the modification has the right to use the
28 Colorado river water.

29 H. A water storage permit shall include the following information:

30 1. The name and mailing address of the person to whom the permit is
31 issued.

1 2. The storage facility where the water storage will occur and the
2 name of the active management area, irrigation non-expansion area,
3 groundwater basin or groundwater ~~sub-basin~~ SUBBASIN, as applicable, in
4 which that facility is located.

5 3. The maximum annual amount of water that may be stored.

6 4. If the applicable finding of subsection D of this section has
7 been made, whether the water to be stored is water that cannot reasonably
8 be used directly by the applicant.

9 5. If the applicable finding of subsection D of this section has
10 been made, any restrictions on where the water to be stored may legally be
11 used.

12 6. Other conditions consistent with this chapter.

13 7. The duration of the permit.

14 I. If the water storage will occur at a groundwater savings
15 facility, the water storage permit shall include, in addition to the
16 information required by subsection H of this section, the requirements of
17 the plan by which the quantity of groundwater saved at the storage facility
18 will be proved each year.

19 J. If the director of the department of water resources decides to
20 issue a water storage permit and the applicant has not received a water
21 quality permit required by the department of environmental quality under
22 title 49, chapter 2, article 3 and by federal law, the director of the
23 department of water resources shall make receipt of the water quality
24 permit a condition of the water storage permit and the holder of the water
25 storage permit shall not store water until receiving the water quality
26 permit.

27 Sec. 3. Section 45-832.01, Arizona Revised Statutes, is amended to
28 read:

29 45-832.01. Use of stored water

30 A. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, water that
31 has been stored pursuant to a water storage permit may be used or exchanged

1 only in the manner in which it was permissible to use or exchange the water
2 before it was stored.

3 B. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, water that
4 has been stored pursuant to a water storage permit may be used only in the
5 location in which it was permissible to use the water before it was stored.

6 C. EFFLUENT AS DEFINED IN SECTION 45-101, PARAGRAPH 4, SUBDIVISION
7 (b) THAT HAS BEEN STORED PURSUANT TO A WATER STORAGE PERMIT MAY BE USED BY
8 THE STORER ONLY FOR A NONIRRIGATION USE AT THE SAME SITE WHERE THE WATER
9 WAS STORED.

10 ~~D.~~ D. Water that has been stored pursuant to a water storage permit
11 may be used for replenishment purposes only in the active management area
12 in which the water is stored, unless the water is recovered and transported
13 to another active management area.

14 ~~E.~~ E. Stored water may be used only as follows:

15 1. The water may be recovered by the storer and used on an annual
16 basis in accordance with section 45-851.01.

17 2. The water may be credited to the storer's long-term storage
18 account, if the water meets the requirements of section 45-852.01, and the
19 long-term storage credits may be used in accordance with ~~the provisions of~~
20 this chapter.

21 3. A district that is storing water may have the stored water
22 credited to its master replenishment account, if the water would meet the
23 requirements of long-term storage credits as prescribed by section
24 45-852.01.

25 4. A conservation district that is storing water may have the stored
26 water credited to its conservation district account, if the water would
27 meet the requirements of long-term storage credits as prescribed by section
28 45-852.01.

29 5. A water district that is storing water may have the stored water
30 credited to its water district account, if the water would meet the
31 requirements of long-term storage credits as prescribed by section
32 45-852.01.

1 Sec. 4. Section 45-834.01, Arizona Revised Statutes, is amended to
2 read:

3 45-834.01. Recovery of stored water; recovery well permit;
4 emergency temporary recovery well permit; well
5 construction

6 A. A person who holds long-term storage credits or who may recover
7 water on an annual basis may recover the water stored pursuant to a water
8 storage permit only:

9 1. If the person seeking to recover stored water has applied for and
10 received a recovery well permit under this article.

11 2. For water stored within an active management area, if one of the
12 following applies:

13 (a) The proposed recovery well is located within the area of impact
14 of the stored water, as determined by the director, and either the person
15 recovering the water is the storer or the stored water to be recovered is
16 Colorado river water. If the stored water to be recovered is effluent that
17 is stored in a managed underground storage facility and if the proposed
18 recovery well is not an already constructed well owned by the person
19 recovering the water and is located within the exterior boundaries of the
20 service area of a city, town, private water company or irrigation district,
21 that city, town, private water company or irrigation district must be
22 notified by the person recovering the stored water and must have the right
23 to offer to recover the water stored on behalf of that person. If the
24 city, town, private water company or irrigation district offers to recover
25 the water on behalf of the person seeking recovery and the water that is
26 offered for recovery is of comparable quality to the water that the person
27 could recover, the person seeking to recover the water shall consider
28 accepting the best offer from the city, town, private water company or
29 irrigation district overlying the area of impact that has offered to
30 recover the stored water.

1 (b) The proposed recovery well is located outside the area of impact
2 of the stored water, as determined by the director, and all of the
3 following apply:

4 (i) The proposed recovery well is located within the same active
5 management area as storage.

6 (ii) The director determines that recovery at the proposed location
7 is consistent with the management plan and achievement of the management
8 goal for the active management area.

9 (iii) If the proposed recovery well is located within the exterior
10 boundaries of the service area of a city, town, private water company or
11 irrigation district, that city, town, private water company or irrigation
12 district is the person seeking to recover the water or has consented to the
13 location of the recovery well.

14 (iv) If the proposed recovery well is located outside, but within
15 three miles of, the exterior boundaries of the service area of a city,
16 town, private water company or irrigation district, the closest city, town,
17 private water company or irrigation district has consented to the location
18 of the recovery well.

19 (v) THE STORED WATER IS NOT EFFLUENT AS DEFINED IN SECTION 45-101,
20 PARAGRAPH 4, SUBDIVISION (b).

21 (c) The proposed recovery well is located within the area of impact
22 of the stored water, as determined by the director, the person recovering
23 the water is not the storer, the stored water to be recovered is not
24 Colorado river water and all of the conditions prescribed by subdivision
25 (b), items (i) through ~~(iv)~~ (v) of this paragraph are met.

26 3. For water stored outside of an active management area, if
27 recovery will occur within the same irrigation non-expansion area,
28 groundwater basin or groundwater sub-basin, as applicable, in which the
29 water was stored.

30 B. Before recovering from any well water stored pursuant to a water
31 storage permit, a person shall apply for and receive a recovery well permit

1 from the director. The director shall issue the recovery well permit if
2 the director determines that:

3 1. If the application is for a new well, as defined in section
4 45-591, or except as provided in paragraphs 2 and 3 of this subsection for
5 an existing well, as defined in section 45-591, the proposed recovery of
6 stored water will not unreasonably increase damage to surrounding land or
7 other water users from the concentration of wells. The director shall make
8 this determination pursuant to rules adopted by the director.

9 2. If the applicant is a city, town, private water company or
10 irrigation district in an active management area and the application is for
11 an existing well within the service area of the city, town, private water
12 company or irrigation district, the applicant has a right to use the
13 existing well.

14 3. If the applicant is a conservation district and the application
15 is for an existing well within the conservation district and within the
16 groundwater basin or sub-basin in which the stored water is located, the
17 applicant has a right to use the existing well.

18 C. A city, town, private water company or irrigation district in an
19 active management area may apply with a single application to the director
20 to have all existing wells, as defined in section 45-591, that the
21 applicant has the right to use within its service area listed as recovery
22 wells on the recovery well permit, if those wells otherwise meet the
23 requirements of this section.

24 D. If the applicant is a conservation district, the director may
25 issue an emergency temporary recovery well permit without complying with
26 section 45-871.01, subsection F if the director determines that all of the
27 following apply:

28 1. The conservation district cannot reasonably continue to supply
29 central Arizona project water directly to a city, town, private water
30 company or irrigation district due to an unplanned failure of a portion of
31 the central Arizona project delivery system.

1 2. The emergency temporary recovery well permit is necessary to
2 allow the conservation district to provide immediate delivery of
3 replacement water to the city, town, private water company or irrigation
4 district.

5 3. The application is for an existing well as defined in section
6 45-591 that is within the groundwater basin or groundwater sub-basin in
7 which the stored water is located, is within the conservation district and
8 is within the service area of the city, town, private water company or
9 irrigation district.

10 E. An emergency temporary recovery well permit issued pursuant to
11 subsection D of this section may be issued for a period of up to ninety
12 days and may be extended for additional ninety day periods if the director
13 determines that the conditions prescribed in subsection D of this section
14 continue to apply.

15 F. If the application for a recovery well permit is approved, the
16 director shall issue a permit and the applicant may proceed to construct or
17 use the well. If the application is rejected, the applicant shall not
18 proceed to construct or use the well. A new well shall be completed within
19 one year of receipt of the permit, unless the director in granting the
20 permit approves a longer period to complete the well. If the well is not
21 completed within one year or the longer period approved by the director,
22 the applicant shall file a new application before proceeding with
23 construction.

24 G. A recovery well permit shall include the following information:

25 1. The name and mailing address of the person to whom the permit is
26 issued.

27 2. The legal description of the location of the existing well or
28 proposed new well from which stored water may be recovered pursuant to the
29 permit.

30 3. The purpose for which the stored water will be recovered.

31 4. The depth and diameter of the existing well or proposed new well
32 from which stored water may be recovered pursuant to the permit.

1 5. The legal description of the land on which the stored water will
2 be used.

3 6. The maximum pumping capacity of the existing well or proposed new
4 well.

5 7. If the permit is for a proposed new well, the latest date for
6 completing the proposed new well.

7 8. Any other information as the director may determine."

8 Renumber to conform

9 Page 5, line 4, after "EFFLUENT" strike remainder of line

10 Line 5, strike "PRESCRIBED BY" insert "AS DEFINED IN"

11 After line 43, insert:

12 "Sec. 6. Section 49-250, Arizona Revised Statutes, is amended to
13 read:

14 49-250. Exemptions

15 A. The director, by rule, may exempt specifically described classes
16 or categories of facilities from the aquifer protection permit requirements
17 of this article on a finding either that there is no reasonable probability
18 of degradation of the aquifer or that aquifer water quality will be
19 maintained and protected because the discharges from the facilities are
20 regulated under other federal or state programs that provide the same or
21 greater aquifer water quality protection as provided by this article.

22 B. The following are exempt from the aquifer protection permit
23 requirement of this article:

24 1. Household and domestic activities.

25 2. Household gardening, lawn watering, lawn care, landscape
26 maintenance and related activities.

27 3. The noncommercial use of consumer products generally available to
28 and used by the public.

29 4. Ponds used for watering livestock and wildlife.

1 5. Mining overburden returned to the excavation site, including any
2 common material that has been excavated and removed from the excavation
3 site and that has not been subjected to any chemical or leaching agent or
4 process of any kind.

5 6. Facilities used solely for surface transportation or storage of
6 groundwater, surface water for beneficial use or reclaimed water that is
7 regulated pursuant to section 49-203, subsection A, paragraph 7 for
8 beneficial use.

9 7. Discharge to a community sewer system.

10 8. Facilities that are required to obtain a permit for the direct
11 reuse of reclaimed water.

12 9. Leachate resulting from the direct, natural infiltration of
13 precipitation through undisturbed regolith or bedrock if pollutants are not
14 added to the leachate as a result of any material or activity placed or
15 conducted by man on the ground surface.

16 10. Surface impoundments used solely to contain storm runoff, except
17 for surface impoundments regulated by the federal clean water act or
18 article 3.1 of this chapter.

19 11. Closed facilities. However, if the facility ever resumes
20 operation the facility shall obtain an aquifer protection permit and the
21 facility shall be treated as a new facility for purposes of section 49-243.

22 12. Facilities for the storage of water pursuant to title 45,
23 chapter 3.1 unless reclaimed water is added.

24 13. Facilities using central Arizona project water for underground
25 storage and recovery projects under title 45, chapter 3.1, article 6.

26 14. Water storage at a groundwater saving facility that has been
27 permitted under title 45, chapter 3.1.

28 15. Application of water from any source, including groundwater,
29 surface water or wastewater, to grow agricultural crops or for landscaping
30 purposes, except as provided in section 49-247.

1 16. Discharges to a facility that is exempt pursuant to paragraph 6
2 of this subsection if those discharges are regulated pursuant to 33 United
3 States Code section 1342 or article 3.1 of this chapter.

4 17. Solid waste and special waste facilities if rules addressing
5 aquifer protection are adopted by the director pursuant to section 49-761
6 or 49-855 and those facilities obtain plan approval pursuant to those
7 rules. This exemption shall apply only if the director determines that
8 aquifer water quality standards will be maintained and protected because
9 the discharges from those facilities are regulated under rules adopted
10 pursuant to section 49-761 or 49-855 that provide aquifer water quality
11 protection that is equal to or greater than aquifer water quality
12 protection provided pursuant to this article.

13 18. Facilities used in:

14 (a) Corrective actions taken pursuant to chapter 6, article 1 of
15 this title in response to a release of a regulated substance as defined in
16 section 49-1001 except for those off-site facilities that receive for
17 treatment or disposal materials that are contaminated with a regulated
18 substance and that are received as part of a corrective action.

19 (b) Response or remedial actions undertaken pursuant to article 5 of
20 this chapter or pursuant to CERCLA.

21 (c) Corrective actions taken pursuant to the resource conservation
22 and recovery act of 1976, as amended (42 United States Code sections 6901
23 through 6992).

24 (d) Other remedial actions that have been reviewed and approved by
25 the appropriate governmental authority and taken pursuant to applicable
26 federal or state laws.

27 19. Municipal solid waste landfills as defined in section 49-701
28 that have solid waste facility plan approval pursuant to section 49-762.

29 20. Storage, treatment or disposal of inert material.

30 21. Structures that are designed and constructed not to discharge
31 and that are built on an impermeable barrier that can be visually inspected
32 for leakage.

1 22. Pipelines and tanks designed, constructed, operated and
2 regularly maintained so as not to discharge.

3 23. Surface impoundments and dry wells that are used to contain
4 storm water in combination with discharges from one or more of the
5 following activities or sources:

6 (a) Firefighting system testing and maintenance.

7 (b) Potable water sources, including waterline flushings.

8 (c) Irrigation drainage and lawn watering.

9 (d) Routine external building wash down without detergents.

10 (e) Pavement wash water if no spills or leaks of toxic or hazardous
11 material have occurred unless all spilled material has first been removed
12 and no detergents have been used.

13 (f) Air conditioning, compressor and steam equipment condensate that
14 has not contacted a hazardous or toxic material.

15 (g) Foundation or footing drains in which flows are not contaminated
16 with process materials.

17 (h) Occupational safety and health administration or mining safety
18 and health administration safety equipment.

19 24. Industrial wastewater treatment facilities designed, constructed
20 and operated as required by section 49-243, subsection B, paragraph 1 and
21 using a treatment system approved by the director to treat wastewater to
22 meet aquifer water quality standards ~~prior to~~ BEFORE discharge, if that
23 water is stored at a groundwater storage facility pursuant to title 45,
24 chapter 3.1, EXCEPT THAT FACILITIES THAT TREAT AND STORE EFFLUENT AS
25 DEFINED IN SECTION 45-101, PARAGRAPH 4, SUBDIVISION (b) ARE NOT EXEMPT.

26 25. Any point source discharge caused by a storm event and
27 authorized in a permit issued pursuant to section 402 of the clean water
28 act or an Arizona pollutant discharge elimination system permit under
29 article 3.1 of this chapter.

30 26. Except for class V wells that are operating as prescribed by
31 rules adopted pursuant to article 3.3 of this chapter or 42 United States
32 Code section 300h-1(c), any underground injection well covered by a permit

1 issued under article 3.3 of this chapter or under 42 United States Code
2 section 300h-1(c).

3 27. Coal combustion residuals units that are regulated under 40 Code
4 of Federal Regulations part 257, subpart D or by a permit in effect under
5 the coal combustion residuals program established pursuant to chapter 4,
6 article 11 of this title and approved by the United States environmental
7 protection agency as prescribed by 42 United ~~State~~ STATES Code section
8 6945(d)(1)."

9 Amend title to conform

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