

PROPOSED

SENATE AMENDMENTS TO H.B. 2445

(Reference to House engrossed bill)

1 Page 11, after line 8, insert:

2 "Sec. 2. Section 45-576, Arizona Revised Statutes, is amended to
3 read:

4 45-576. Certificate of assured water supply; designated
5 cities, towns and private water companies;
6 exemptions; definition

7 A. Except as provided in subsections G and J of this section, a
8 person who proposes to offer subdivided lands, as defined in section
9 32-2101, for sale or lease in an active management area shall apply for and
10 obtain a certificate of assured water supply from the director ~~prior to~~
11 **BEFORE** presenting the plat for approval to the city, town or county in
12 which the land is located, where such is required, and ~~prior to~~ **BEFORE**
13 filing with the state real estate commissioner a notice of intention to
14 offer such lands for sale or lease, pursuant to section 32-2181, unless the
15 subdivider has obtained a written commitment of water service for the
16 subdivision from a city, town or private water company designated as having
17 an assured water supply pursuant to this section.

18 B. Except as provided in subsections G and J of this section, a
19 city, town or county may approve a subdivision plat only if the subdivider
20 has obtained a certificate of assured water supply from the director or the
21 subdivider has obtained a written commitment of water service for the
22 subdivision from a city, town or private water company designated as having
23 an assured water supply pursuant to this section. The city, town or county
24 shall note on the face of the approved plat that a certificate of assured
25 water supply has been submitted with the plat or that the subdivider has

1 obtained a written commitment of water service for the proposed subdivision
2 from a city, town or private water company designated as having an assured
3 water supply pursuant to this section.

4 C. Except as provided in subsections G and J of this section, the
5 state real estate commissioner may issue a public report authorizing the
6 sale or lease of subdivided lands only on compliance with either of the
7 following:

8 1. The subdivider, owner or agent has paid any activation fee
9 required under section 48-3772, subsection A, paragraph 7 and any
10 replenishment reserve fee required under section 48-3774.01, subsection A,
11 paragraph 2 and has obtained a certificate of assured water supply from the
12 director.

13 2. The subdivider has obtained a written commitment of water service
14 for the lands from a city, town or private water company designated as
15 having an assured water supply pursuant to this section and the subdivider,
16 owner or agent has paid any activation fee required under section 48-3772,
17 subsection A, paragraph 7.

18 D. The director shall designate private water companies in active
19 management areas that have an assured water supply. If a city or town
20 acquires a private water company that has contracted for central Arizona
21 project water, the city or town shall assume the private water company's
22 contract for central Arizona project water.

23 E. The director shall designate cities and towns in active
24 management areas where an assured water supply exists. If a city or town
25 has entered into a contract for central Arizona project water, the city or
26 town is deemed to continue to have an assured water supply until December
27 31, 1997. Commencing on January 1, 1998, the determination that the city
28 or town has an assured water supply is subject to review by the director
29 and the director may determine that a city or town does not have an assured
30 water supply.

31 F. The director shall notify the mayors of all cities and towns in
32 active management areas and the chairmen of the boards of supervisors of

1 counties in which active management areas are located of the cities, towns
2 and private water companies designated as having an assured water supply
3 and any modification of that designation within thirty days of the
4 designation or modification. If the service area of the city, town or
5 private water company has qualified as a member service area pursuant to
6 title 48, chapter 22, article 4, the director shall also notify the
7 conservation district of the designation or modification and shall report
8 the projected average annual replenishment obligation for the member
9 service area based on the projected and committed average annual demand for
10 water within the service area during the effective term of the designation
11 or modification subject to any limitation in an agreement between the
12 conservation district and the city, town or private water company. For
13 each city, town or private water company that qualified as a member service
14 area under title 48, chapter 22 and was designated as having an assured
15 water supply before January 1, 2004, the director shall report to the
16 conservation district on or before January 1, 2005 the projected average
17 annual replenishment obligation based on the projected and committed
18 average annual demand for water within the service area during the
19 effective term of the designation subject to any limitation in an agreement
20 between the conservation district and the city, town or private water
21 company. Persons proposing to offer subdivided lands served by those
22 designated cities, towns and private water companies for sale or lease are
23 exempt from applying for and obtaining a certificate of assured water
24 supply.

25 G. This section does not apply in the case of the sale of lands for
26 developments that are subject to a mineral extraction and processing permit
27 or an industrial use permit pursuant to sections 45-514 and 45-515.

28 H. The director shall adopt rules to carry out the purposes of this
29 section. On or before January 1, 2008, the rules shall provide for a
30 reduction in water demand for an application for a designation of assured
31 water supply or a certificate of assured water supply if a gray water reuse
32 system will be installed that meets the requirements of the rules adopted

1 by the department of environmental quality for gray water systems and if
2 the application is for a certificate of assured water supply, the land for
3 which the certificate is sought must qualify as a member land in a
4 conservation district pursuant to title 48, chapter 22, article 4. For the
5 purposes of this subsection, "gray water" has the same meaning prescribed
6 in section 49-201.

7 I. If the director designates a municipal provider as having an
8 assured water supply under this section and the designation lapses or
9 otherwise terminates while the municipal provider's service area is a
10 member service area of a conservation district, the municipal provider or
11 its successor shall continue to comply with the consistency with management
12 goal requirements in the rules adopted by the director under subsection H
13 of this section as if the designation was still in effect with respect to
14 the municipal provider's designation uses. When determining compliance by
15 the municipal provider or its successor with the consistency with
16 management goal requirements in the rules, the director shall consider only
17 water delivered by the municipal provider or its successor to the municipal
18 provider's designation uses. A person is the successor of a municipal
19 provider if the person commences water service to uses that were previously
20 designation uses of the municipal provider. Any groundwater delivered by
21 the municipal provider or its successor to the municipal provider's
22 designation uses in excess of the amount allowed under the consistency with
23 management goal requirements in the rules shall be considered excess
24 groundwater for purposes of title 48, chapter 22. For the purposes of this
25 subsection, "designation uses" means all water uses served by a municipal
26 provider on the date the municipal provider's designation of assured water
27 supply lapses or otherwise terminates and all recorded lots within the
28 municipal provider's service area that were not being served by the
29 municipal provider on that date but that received final plat approval from
30 a city, town or county on or before that date. Designation uses do not
31 include industrial uses served by an irrigation district under section
32 45-497.

1 J. Subsections A, B and C of this section do not apply to a person
2 who proposes to offer subdivided land for sale or lease in an active
3 management area if all the following apply:

4 1. The director issued a certificate of assured water supply for the
5 land to a previous owner of the land and the certificate was classified as
6 a type A certificate under rules adopted by the director pursuant to
7 subsection H of this section.

8 2. The director has not revoked the certificate of assured water
9 supply described in paragraph 1 of this subsection, and proceedings to
10 revoke the certificate are not pending before the department or a court.
11 The department shall post on its website a list of all certificates of
12 assured water supply that have been revoked or for which proceedings are
13 pending before the department or a court.

14 3. The plat submitted to the department in the application for the
15 certificate of assured water supply described in paragraph 1 of this
16 subsection has not changed.

17 4. Water service is currently available to each lot within the
18 subdivided land and the water provider listed on the certificate of assured
19 water supply described in paragraph 1 of this subsection has not changed.

20 5. The subdivided land qualifies as a member land under title 48,
21 chapter 22 and the subdivider has paid any activation fee required under
22 section 48-3772, subsection A, paragraph 7 and any replenishment reserve
23 fee required under section 48-3774.01, subsection A, paragraph 2.

24 6. The plat is submitted for approval to a city, town or county that
25 is listed on the department's website as a qualified platting authority.

26 K. Subsection J of this section does not affect the assignment of a
27 certificate of assured water supply as prescribed by section 45-579.

28 L. EXCEPT FOR APPLICATIONS SUBMITTED ON OR BEFORE SEPTEMBER 30,
29 2023, BEFORE PRESENTING A PERMIT APPLICATION FOR APPROVAL TO THE CITY, TOWN
30 OR COUNTY IN WHICH THE LAND IS LOCATED, A PERSON THAT SEEKS A BUILDING
31 PERMIT FOR SIX OR MORE DETACHED SINGLE-FAMILY RESIDENCES WITHIN AN ACTIVE
32 MANAGEMENT AREA IN WHICH ANY PORTION OF THE CENTRAL ARIZONA PROJECT

1 AQUEDUCT IS LOCATED, WITHOUT REGARD TO ANY PROPOSED LEASE TERM FOR THOSE
2 DETACHED SINGLE-FAMILY RESIDENCES, SHALL:

3 1. APPLY FOR AND OBTAIN A CERTIFICATE OF ASSURED WATER SUPPLY FROM
4 THE DIRECTOR UNLESS THE APPLICANT HAS OBTAINED A WRITTEN COMMITMENT OF
5 WATER SERVICE FOR THE RESIDENCES FROM A CITY, TOWN OR PRIVATE WATER COMPANY
6 THAT IS DESIGNATED AS HAVING AN ASSURED WATER SUPPLY PURSUANT TO THIS
7 SECTION.

8 2. PAY ALL APPLICABLE FEES PURSUANT TO SECTIONS 48-3772 AND
9 48-3774.01 AND ACCOMPANY THE PERMIT APPLICATION WITH PROOF THAT THE
10 APPLICABLE FEES HAVE BEEN PAID.

11 M. EXCEPT FOR APPLICATIONS SUBMITTED ON OR BEFORE SEPTEMBER 30,
12 2023, A CITY, TOWN OR COUNTY MAY APPROVE A BUILDING PERMIT FOR A BUILDING
13 PERMIT APPLICATION THAT INCLUDES SIX OR MORE DETACHED SINGLE-FAMILY
14 RESIDENCES WITHIN AN ACTIVE MANAGEMENT AREA IN WHICH ANY PORTION OF THE
15 CENTRAL ARIZONA PROJECT AQUEDUCT IS LOCATED, WITHOUT REGARD TO ANY PROPOSED
16 LEASE TERM FOR THOSE DETACHED SINGLE-FAMILY RESIDENCES, ONLY IF THE
17 DETACHED SINGLE-FAMILY RESIDENCES INCLUDED IN THE BUILDING PERMIT HAVE
18 OBTAINED A CERTIFICATE OF ASSURED WATER SUPPLY FROM THE DIRECTOR OR A
19 WRITTEN COMMITMENT OF WATER SERVICE FOR THE RESIDENCES FROM A CITY, TOWN OR
20 PRIVATE WATER COMPANY THAT IS DESIGNATED AS HAVING AN ASSURED WATER SUPPLY
21 PURSUANT TO THIS SECTION.

22 ~~T.~~ N. For the purposes of this section, "assured water supply"
23 means all of the following:

24 1. Sufficient groundwater, surface water or effluent of adequate
25 quality will be continuously available to satisfy the water needs of the
26 proposed use for at least one hundred years. Beginning January 1 of the
27 calendar year following the year in which a groundwater replenishment
28 district is required to submit its preliminary plan pursuant to section
29 45-576.02, subsection A, paragraph 1, with respect to an applicant that is
30 a member of the district, "sufficient groundwater" for the purposes of this
31 paragraph means that the proposed groundwater withdrawals that the
32 applicant will cause over a period of one hundred years will be of adequate

1 quality and will not exceed, in combination with other withdrawals from
2 land in the replenishment district, a depth to water of one thousand feet
3 or the depth of the bottom of the aquifer, whichever is less. In
4 determining depth to water for the purposes of this paragraph, the director
5 shall consider the combination of:

6 (a) The existing rate of decline.

7 (b) The proposed withdrawals.

8 (c) The expected water requirements of all recorded lots that are
9 not yet served water and that are located in the service area of a
10 municipal provider.

11 2. The projected groundwater use is consistent with the management
12 plan and achievement of the management goal for the active management area.

13 3. The financial capability has been demonstrated to construct the
14 water facilities necessary to make the supply of water available for the
15 proposed use, including a delivery system and any storage facilities or
16 treatment works. The director may accept evidence of the construction
17 assurances required by section 9-463.01, 11-823 or 32-2181 to satisfy this
18 requirement.

19 Sec. 3. Section 48-3772, Arizona Revised Statutes, is amended to
20 read:

21 48-3772. Duties and powers of district regarding replenishment

22 A. The district shall:

23 1. Establish annually the costs and expenses to replenish
24 groundwater pursuant to this article with respect to all parcels of member
25 lands and all member service areas located in each active management area,
26 including capital expenses, debt service expenses, the operation,
27 maintenance, replacement and administrative costs and expenses of the
28 district, replenishment reserve costs and expenses as provided in
29 subsection E of this section and reasonable reserves. Separate
30 calculations of costs and expenses shall be made for each active management
31 area in which member lands or member service areas are located and for each
32 membership category. Costs and expenses attributed by the district to

1 contract replenishment obligations shall not be included in these
2 calculations.

3 2. Provide for the payment of all costs and expenses to replenish
4 groundwater pursuant to this chapter and the payment of operation,
5 maintenance, replacement and administrative costs and expenses and debt
6 service expenses of the district.

7 3. Levy an annual replenishment assessment against each parcel of
8 member land pursuant to section 48-3778 and an annual replenishment tax
9 against each municipal provider that has a member service area pursuant to
10 section 48-3781 to pay the district's costs and expenses as established
11 pursuant to paragraph 1 of this subsection.

12 4. Levy a contract replenishment tax against municipal providers
13 that are parties to contracts authorized under subsection B, paragraph 9 of
14 this section to pay the district's costs and expenses to replenish
15 groundwater based on contract replenishment obligations.

16 5. Establish and maintain reserve accounts in amounts as may be
17 deemed necessary to perform the district's obligations under this article.

18 6. Fulfill all obligations under resolutions adopted pursuant to
19 subsection B, paragraph 10 of this section.

20 7. Levy an activation fee as follows:

21 (a) For subdivisions within member lands and member service areas
22 that are enrolled before May 6, 2004 and that had not been issued a public
23 report before August 12, 2005, the district shall levy a onetime activation
24 fee against each housing unit to be constructed within the subdivision.

25 (b) For subdivisions within member lands and member service areas
26 that are enrolled on or after May 6, 2004, the district shall levy a
27 onetime activation fee against each housing unit to be constructed within
28 the subdivision.

29 (c) The activation fee shall be paid to the district according to
30 ~~either~~ ONE of the following schedules, whichever the ~~subdivider~~ PAYOR
31 elects:

1 (i) Paid in full before issuance of a public report for each real
2 estate subdivision identified in subdivision (a) or (b) of this paragraph.

3 (ii) One-half paid before issuance of a public report for each real
4 estate subdivision identified in subdivision (a) or (b) of this paragraph
5 and the remaining amount paid no later than one year after the issuance of
6 the public report. The total amount of the activation fee must be the
7 amount of the activation fee in effect at the time of the initial payment.
8 Payment of the initial one-half of the activation fee pursuant to this item
9 constitutes sufficient payment of applicable fees for notice of intent to
10 subdivide as prescribed in section 32-2181, subsection C and for issuance
11 of a public report as prescribed in section 32-2183, subsection G and
12 section 45-576, subsection C, except that on failure to pay the remaining
13 amount, the commissioner shall suspend the public report for that
14 subdivision pursuant to section 32-2183.

15 (iii) PAID IN FULL PURSUANT TO SECTION 45-576, SUBSECTION L.

16 (d) The activation fee shall be established annually by the
17 district. The amount of the activation fee to be paid to the district
18 under subdivision (c) of this paragraph must be the amount of the
19 activation fee in effect at the time of payment. Revenues from the
20 activation fee together with revenues from other sources that are legally
21 available to the district for those uses shall be used by the district to
22 acquire, lease or exchange water or water rights and develop infrastructure
23 necessary for the district to perform its replenishment obligations.

24 8. For any year, set all of its rates and charges associated with
25 the acquisition, lease or exchange of water or water rights and development
26 of infrastructure necessary for the district to perform its replenishment
27 obligations, other than the annual membership dues established pursuant to
28 section 48-3779, so that the total projected revenues from revenue sources
29 other than the annual membership dues, that are legally available to the
30 district in that year to pay costs associated with the acquisition, lease
31 or exchange of water or water rights and development of infrastructure
32 necessary for the district to perform its replenishment obligations, shall

1 be at least three times the total projected revenues from the annual
2 membership dues in that year. For the purposes of this paragraph, costs
3 associated with the acquisition, lease or exchange of water or water rights
4 do not include the annual costs associated with delivery of water for
5 replenishment purposes.

6 B. The district may:

7 1. Acquire, develop, construct, operate, maintain, replace and
8 acquire permits for water storage, storage facilities and recovery wells
9 for replenishment purposes.

10 2. Acquire, transport, hold, exchange, own, lease, store or
11 replenish water, except groundwater withdrawn from an active management
12 area, subject to the provisions of title 45, for the benefit of member
13 lands and member service areas.

14 3. Acquire, hold, exchange, own, lease, retire or dispose of water
15 rights for the benefit of member lands and member service areas.

16 4. Require municipal providers to provide such information, in such
17 form and within the time limits prescribed by the district, as may be
18 necessary to carry out the purpose of this chapter.

19 5. Levy and collect assessments, fees, charges, taxes and other
20 revenues as are provided in this chapter for the financing of replenishment
21 activities.

22 6. Contract for or perform feasibility studies of water storage,
23 storage facilities and recovery wells for replenishment purposes.

24 7. Acquire real and personal property for water storage, storage
25 facilities and recovery wells for replenishment purposes by purchase,
26 lease, donation, dedication, exchange or other lawful means.

27 8. Use any facilities and any excess storage capacity of any state
28 demonstration projects undertaken pursuant to title 45, chapter 3.1 for
29 water storage for replenishment purposes.

1 9. Subject to subsection G of this section, contract with any
2 municipal provider having a member service area to replenish groundwater on
3 behalf of the municipal provider and with respect to the member service
4 area in an amount in excess of the sum of the service area replenishment
5 obligations applicable to the member service area for all years in which
6 the district has not completed the replenishment of the groundwater
7 replenishment obligation for the member service area.

8 10. Adopt resolutions granting water availability status to a member
9 service area of a city, town or private water company and committing to
10 replenish a specified average annual volume of water in a location where
11 the city, town or private water company may physically access the water for
12 service to its customers, if all of the following apply:

13 (a) The district has reviewed its requirements for transportation of
14 central Arizona project water, its contracts, subcontracts, letter
15 agreements, excess water contracts and other contractual obligations and
16 its member service area and member land requirements and has determined
17 that the district can meet those obligations and that capacity remains in
18 the central Arizona project to meet the obligations undertaken through the
19 resolution.

20 (b) The resolution acknowledges that the commitment to replenish the
21 specified average annual volume of water in the location cited in the
22 resolution shall be a permanent obligation of the district, unless one of
23 the following applies:

24 (i) A permanent substitute supply of water is found for the city,
25 town or private water company and the substitution is approved by the
26 director of water resources, thus terminating the water availability status
27 of the member service area.

28 (ii) The requirements of section 45-576.07, subsection A are not
29 met, and thus the director of water resources does not issue an order
30 granting or maintaining the city, town or private water company as having
31 an assured water supply based in whole or in part on section 45-576.07. If
32 no order is issued within two years of the district adopting the

1 resolution, the resolution may be repealed, and the district shall be
2 relieved of all obligations under the resolution.

3 (c) The average annual volume of water specified in the resolution,
4 when added to the average annual volume of water specified in all other
5 resolutions adopted pursuant to this paragraph, does not exceed twenty
6 thousand acre-feet.

7 (d) The district has entered into an agreement with the city, town
8 or private water company under which the city, town or private water
9 company will hold for the district's future use, and provide to the
10 district when needed, sufficient water to meet the obligations undertaken
11 by the district through the resolution.

12 (e) The district determines that the obligations undertaken by the
13 district through the resolution will not increase annual replenishment
14 assessment rates or costs to central Arizona project contract and
15 subcontract holders and its member service areas and member lands.

16 (f) The director of water resources has found, pursuant to section
17 45-576.07, subsection H, that the district has the capability to grant
18 water availability status to member service areas.

19 11. Provide in resolutions adopted pursuant to paragraph 10 of this
20 subsection that the district may fulfill its obligations under the
21 resolution in any year by directly delivering to the city, town or private
22 water company the water that otherwise would have been replenished pursuant
23 to the resolution, if all of the following apply:

24 (a) The district has reviewed its requirements for transportation of
25 central Arizona project water, its contracts, subcontracts, letter
26 agreements, excess water contracts and other contractual obligations and
27 its member service area and member land requirements and has determined
28 that the district can meet those obligations and that capacity remains in
29 the central Arizona project to make direct deliveries pursuant to this
30 paragraph.

1 (b) The district determines that the delivery will not increase
2 annual replenishment assessment rates or costs to central Arizona project
3 contract and subcontract holders, its member service area and member lands.

4 12. Enter into agreements with a city, town or private water company
5 that will have water made available to it through a resolution adopted
6 pursuant to paragraph 10 of this subsection and under which the city, town
7 or private water company compensates the district for the costs and fair
8 value of the water supply provided by the district.

9 13. Issue revenue bonds pursuant to article 3 of this chapter to
10 fund the costs and expenses of the district for the acquisition, lease or
11 exchange of water or water rights and the development of infrastructure
12 necessary for the district to perform its replenishment obligations subject
13 to the following:

14 (a) The principal of, interest and premiums, if any, on revenue
15 bonds issued pursuant to article 3 of this chapter to acquire, lease or
16 exchange water or water rights and develop infrastructure necessary for the
17 district to perform its replenishment obligations are not payable from any
18 revenues of the district other than revenues generated or collected
19 pursuant to this article that are legally available to the district for
20 those purposes and revenues from the investment of the proceeds of the
21 bonds.

22 (b) The district may not use the proceeds of the bonds to acquire or
23 lease:

24 (i) Groundwater, as defined in section 45-101, except as expressly
25 authorized in sections 45-547, 45-553 and 45-554.

26 (ii) Surface water, as defined in section 45-101, that is the
27 subject of a general adjudication pursuant to title 45, chapter 1,
28 article 9.

29 (c) ~~Nothing in~~ Subdivision (b) of this paragraph ~~prohibits~~ DOES NOT
30 PROHIBIT the district from acquiring or leasing central Arizona project
31 water.

1 14. Except as provided in section 48-3780.01, subsection B, in
2 addition to any other assessments, fees, charges or taxes levied and
3 collected under this chapter, or under any declaration, contract or
4 agreement entered into under this chapter, charge annual dues for
5 membership pursuant to section 48-3779 against each parcel of member land
6 and each municipal provider that has a member service area.

7 C. The functions of the district under subsection B, paragraph 1 of
8 this section may be performed on behalf of the district by other persons
9 under contract with the district.

10 D. The capital costs of the facilities of any state demonstration
11 projects used by the district pursuant to subsection B, paragraph 8 of this
12 section shall not be included in the capital costs and expenses established
13 by the district under subsection A, paragraph 1 of this section.

14 E. The district shall establish and maintain a replenishment reserve
15 as follows:

16 1. The district shall calculate a reserve target for each of the
17 three active management areas within the district and shall identify the
18 reserve target in the plan of operation prepared pursuant to section
19 45-576.02. The reserve target for each active management area shall be
20 calculated as follows:

21 (a) For each active management area, add together the projected
22 replenishment obligation for each of the one hundred years following
23 submission of the plan of operation. For the purposes of this subdivision,
24 each active management area's projected replenishment obligation does not
25 include replenishment obligations under resolutions adopted pursuant to
26 subsection B, paragraph 10 of this section or replenishment obligations for
27 category 2 member lands.

28 (b) Subtract from the sum of the active management area's projected
29 replenishment obligation over the one hundred-year period the sum of the
30 following volumes of water derived from sources identified in the plan as
31 water that the district plans to use to meet its replenishment obligations
32 for that active management area:

1 (i) The annual volume of each nondeclining, long-term municipal and
2 industrial subcontract for central Arizona project water multiplied by one
3 hundred.

4 (ii) The annual volume of water under leases or contracts that can
5 be made physically and legally available to the district consistent with
6 the rules adopted pursuant to section 45-576, subsection H, multiplied by
7 the number of years, not to exceed one hundred, in which the water is to be
8 made available to the district. The water need not be continuously
9 available to be included in this item. A lease or contract shall not be
10 considered under this item if the water to be made available under the
11 lease or contract is for a term of less than twenty years.

12 (iii) The total volume of groundwater that the district plans to
13 transport to the active management area during the next one hundred years
14 as allowed by title 45, chapter 2, article 8.1.

15 (iv) The total volume of all sources of water not identified in
16 items (i), (ii) or (iii) of this subdivision that will not be held by the
17 district under a lease or contract. Volumes to be included under this item
18 must be consistent with the rules adopted by the director pursuant to
19 section 45-576, subsection H.

20 (c) Multiply the result from subdivision (b) of this paragraph by
21 twenty percent. The result is the reserve target for the active management
22 area.

23 2. The reserve target for an active management area may be adjusted
24 by the district, subject to the approval of the director of water
25 resources, based on changes in either of the following:

26 (a) The active management area's projected replenishment obligation.

27 (b) The volumes of water identified in the plan of operation
28 prepared pursuant to section 45-576.02 as water that the district plans to
29 use to meet its replenishment obligations for that active management area.

30 3. The district shall include a replenishment reserve charge in the
31 annual replenishment assessment levied against all parcels of category 1
32 member land as provided in section 48-3774.01 and in the annual

1 replenishment tax levied against all municipal providers that have member
2 service areas as provided in section 48-3780.01. The replenishment reserve
3 charge for each active management area is established annually by the
4 district based on the reserve target for that active management area.

5 4. The district shall levy a replenishment reserve fee against
6 category 1 member lands pursuant to section 48-3774.01 and against member
7 service areas pursuant to section 48-3780.01. For category 1 member lands
8 the fee is equal to twice the applicable replenishment reserve charge
9 multiplied by the total projected average annual replenishment obligation
10 for the member lands as reported by the director of water resources
11 pursuant to section 45-578, subsection F. For member service areas the fee
12 is equal to twice the applicable replenishment reserve charge multiplied by
13 the excess groundwater increment. With the approval of the district and
14 the director of water resources, long-term storage credits as defined in
15 section 45-802.01 may be assigned to the district's replenishment reserve
16 subaccount in lieu of paying the replenishment reserve fee.

17 5. The district shall use replenishment reserve charges and
18 replenishment reserve fees collected within each active management area
19 together with all interest earned on the charges and fees to store water in
20 that active management area in advance of groundwater replenishment
21 obligations for the purpose of developing long-term storage credits as
22 defined in section 45-802.01 that shall be credited to the replenishment
23 reserve subaccount for that active management area as provided in section
24 45-859.01.

25 6. Beginning on January 1, 2030 or earlier, on approval of the
26 director of water resources pursuant to section 45-859.01, subsection K,
27 the district may transfer credits from a replenishment reserve subaccount
28 to a conservation district account as provided in section 45-859.01 to
29 satisfy its groundwater replenishment obligations.

1 7. If the district transfers credits from the replenishment reserve
2 subaccount for an active management area pursuant to section 45-859.01,
3 subsection E, the district shall include in the annual replenishment
4 assessment levied against all parcels of category 1 member land in that
5 active management area and, except as provided in section 48-3780.01,
6 subsection B, in the annual replenishment tax levied against all municipal
7 providers that have member service areas in that active management area a
8 reserve replacement component to fund the replacement of the transferred
9 credits. The district shall use all monies from the reserve replacement
10 component collected within an active management area together with all
11 interest earned on the monies to develop long-term storage credits as
12 defined in section 45-802.01 within that active management area to be
13 credited to the replenishment reserve subaccount for that active management
14 area as provided in section 45-859.01.

15 8. For the purposes of establishing and maintaining the
16 replenishment reserve, the district shall have access to excess central
17 Arizona project water equivalent to but not more than the access the
18 Arizona water banking authority has for the purposes specified in section
19 45-2401, subsection H, paragraph 2.

20 F. Groundwater replenished by the district pursuant to a contract to
21 replenish groundwater under subsection B, paragraph 9 of this section shall
22 not be credited to a replenishment reserve subaccount established under
23 section 45-859.01.

24 G. The district shall not enter into a contract authorized under
25 subsection B, paragraph 9 of this section unless the district has
26 determined that the contract will not adversely affect the district's
27 ability to fulfill its obligations under this chapter. For each contract
28 entered into under subsection B, paragraph 9 of this section, the district
29 shall perform its contract replenishment obligations in the active
30 management area in which the service area of the municipal provider that is
31 the party to the contract is located.

1 H. If the district replenishes groundwater on behalf of a municipal
2 provider pursuant to a contract to replenish groundwater under subsection
3 B, paragraph 9 of this section, the amount of groundwater so replenished
4 shall be a replenishment credit to the municipal provider that may be
5 applied by the municipal provider on notice to the district to reduce the
6 service area replenishment obligations applicable to the municipal
7 provider.

8 I. In the Phoenix active management area, the district, to the
9 extent reasonably feasible, shall replenish groundwater in the east portion
10 of the active management area and in the west portion of the active
11 management area in the approximate proportion that the groundwater
12 replenishment obligation attributable in a particular year to member lands
13 and member service areas located in the east portion of the active
14 management area bears to the groundwater replenishment obligation
15 attributable in that year to member lands and member service areas located
16 in the west portion of the active management area. For the purposes of
17 this subsection, the boundary between the east Salt river valley subbasin
18 and the west Salt river valley subbasin is the boundary between the east
19 and west portions of the active management area.

20 J. The costs and expenses charged by the district to an active
21 management area water district established under chapter 28 of this title
22 for delivery of surplus central Arizona project water to such active
23 management area water district for replenishment purposes shall not exceed
24 the costs and expenses for delivery of such water that are or would be
25 included by the district in the costs and expenses of replenishment for
26 member lands and member service areas within the active management area in
27 which such active management area water district is situated.

1 Sec. 4. Section 48-3774.01, Arizona Revised Statutes, is amended to
2 read:

3 48-3774.01. Category 1 member lands; category 2 member lands;
4 fees

5 A. Except as provided in subsection B of this section, all real
6 property that qualifies under section 48-3774 shall be category 1 member
7 land. The district shall levy annual replenishment reserve charges and
8 ~~one-time~~ ONETIME replenishment reserve fees for category 1 member lands as
9 provided in section 48-3772, subsection E and as follows:

10 1. For category 1 member lands that qualified before January 1,
11 2004, the district shall levy annual replenishment reserve charges for
12 twenty-five years beginning in 2004.

13 2. For category 1 member land that qualifies on or after January 1,
14 2004, a replenishment reserve fee shall be paid before issuance of a public
15 report for each final plat within the member land as provided in section
16 45-576, subsection C OR PAID IN FULL PURSUANT TO SECTION 45-576, SUBSECTION
17 L FOR EACH BUILDING PERMIT ISSUED and the district shall levy annual
18 replenishment reserve charges against the land included within the final
19 plat for twenty-three years beginning in the year after payment of the
20 corresponding replenishment reserve fee.

21 B. A parcel of member land shall be a category 2 member land if all
22 of the following apply:

23 1. The parcel of member land is or will be used as a golf course.

24 2. The parcel of member land is not served by a water provider that
25 has been designated by the director of water resources as having an assured
26 water supply pursuant to section 45-576.

27 3. The owner of the parcel notifies the district in writing at the
28 time of qualification that the parcel is to be category 2 member land. For
29 member land that qualified under section 48-3774 before January 1, 2004,
30 ~~such~~ THE notification must be made ~~no~~ NOT later than January 30, 2004.

1 C. The district shall not levy replenishment reserve fees,
2 replenishment reserve charges or a reserve replacement component against
3 category 2 member lands.

4 D. The district shall not use credits from a replenishment reserve
5 subaccount established under section 45-859.01 to satisfy its groundwater
6 replenishment obligations for category 2 member lands. If as a result the
7 district incurs additional costs and expenses in meeting its replenishment
8 obligations for category 2 member lands, those additional costs and
9 expenses are attributed solely to category 2 member lands for THE purposes
10 of section 48-3772, subsection A, paragraph 1."

11 Amend title to conform

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