

House Engrossed

assured water supply; commingling

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE BILL 2017

AN ACT

AMENDING SECTION 45-576, ARIZONA REVISED STATUTES; RELATING TO
GROUNDWATER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. 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
10 and obtain a certificate of assured water supply from the director before
11 presenting the plat for approval to the city, town or county in which the
12 land is located, where such is required, and before filing with the state
13 real estate commissioner a notice of intention to offer such lands for
14 sale or lease, pursuant to section 32-2181, unless the subdivider has
15 obtained a written commitment of water service for the subdivision from a
16 city, town or private water company designated as having an assured water
17 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
21 the subdivider has obtained a written commitment of water service for the
22 subdivision from a city, town or private water company designated as
23 having an assured water supply pursuant to this section. The city, town
24 or county shall note on the face of the approved plat that a certificate
25 of assured water supply has been submitted with the plat or that the
26 subdivider has obtained a written commitment of water service for the
27 proposed subdivision from a city, town or private water company designated
28 as having an assured water supply pursuant to this section.

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

33 1. The subdivider, owner or agent has paid any activation fee
34 required under section 48-3772, subsection A, paragraph 7 and any
35 replenishment reserve fee required under section 48-3774.01, subsection A,
36 paragraph 2 and has obtained a certificate of assured water supply from
37 the director.

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

43 D. The director shall designate private water companies in active
44 management areas that have an assured water supply. If a city or town
45 acquires a private water company that has contracted for central Arizona

1 project water, the city or town shall assume the private water company's
2 contract for central Arizona project water.

3 E. The director shall designate cities and towns in active
4 management areas where an assured water supply exists. If a city or town
5 has entered into a contract for central Arizona project water, the city or
6 town is deemed to continue to have an assured water supply until December
7 31, 1997. Commencing on January 1, 1998, the determination that the city
8 or town has an assured water supply is subject to review by the director
9 and the director may determine that a city or town does not have an
10 assured water supply.

11 F. The director shall notify the mayors of all cities and towns in
12 active management areas and the chairmen of the boards of supervisors of
13 counties in which active management areas are located of the cities, towns
14 and private water companies designated as having an assured water supply
15 and any modification of that designation within thirty days ~~of~~ AFTER the
16 designation or modification. If the service area of the city, town or
17 private water company has qualified as a member service area pursuant to
18 title 48, chapter 22, article 4, the director shall also notify the
19 conservation district of the designation or modification and shall report
20 the projected average annual replenishment obligation for the member
21 service area based on the projected and committed average annual demand
22 for water within the service area during the effective term of the
23 designation or modification subject to any limitation in an agreement
24 between the conservation district and the city, town or private water
25 company. For each city, town or private water company that qualified as a
26 member service area under title 48, chapter 22 and THAT was designated as
27 having an assured water supply before January 1, 2004, the director shall
28 report to the conservation district on or before January 1, 2005 the
29 projected average annual replenishment obligation based on the projected
30 and committed average annual demand for water within the service area
31 during the effective term of the designation subject to any limitation in
32 an agreement between the conservation district and the city, town or
33 private water company. Persons proposing to offer subdivided lands served
34 by those designated cities, towns and private water companies for sale or
35 lease are exempt from applying for and obtaining a certificate of assured
36 water supply.

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

41 H. The director shall adopt rules to carry out the purposes of this
42 section. ~~On or before January 1, 2008,~~ The rules shall provide for a
43 reduction in water demand for an application for a designation of assured
44 water supply or a certificate of assured water supply if a gray water
45 reuse system will be installed that meets the requirements of the rules

1 adopted by the department of environmental quality for gray water systems
2 and if the application is for a certificate of assured water supply, the
3 land for which the certificate is sought must qualify as a member land in
4 a conservation district pursuant to title 48, chapter 22, article 4. For
5 the purposes of this subsection, "gray water" has the same meaning
6 prescribed 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
12 management goal requirements in the rules adopted by the director under
13 subsection H of this section as if the designation was still in effect
14 with respect to the municipal provider's designation uses. When
15 determining compliance by the municipal provider or its successor with the
16 consistency with management goal requirements in the rules, the director
17 shall consider only water delivered by the municipal provider or its
18 successor to the municipal provider's designation uses. A person is the
19 successor of a municipal provider if the person commences water service to
20 uses that were previously designation uses of the municipal provider. Any
21 groundwater delivered by the municipal provider or its successor to the
22 municipal provider's designation uses in excess of the amount allowed
23 under the consistency with management goal requirements in the rules shall
24 be considered excess groundwater for purposes of title 48, chapter 22.
25 For the purposes of this subsection, "designation uses" means all water
26 uses served by a municipal provider on the date the municipal provider's
27 designation of assured water supply lapses or otherwise terminates and all
28 recorded lots within the municipal provider's service area that were not
29 being served by the municipal provider on that date but that received
30 final plat approval from a city, town or county on or before that date.
31 Designation uses do not include industrial uses served by an irrigation
32 district under section 45-497.

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

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

40 2. The director has not revoked the certificate of assured water
41 supply described in paragraph 1 of this subsection, and proceedings to
42 revoke the certificate are not pending before the department or a court.
43 The department shall post on its website a list of all certificates of
44 assured water supply that have been revoked or for which proceedings are
45 pending before the department or a court.

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

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

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

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

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

17 L. On or before December 31, 2023, the director shall study and
18 submit to the governor, president of the senate and speaker of the house
19 of representatives a report on whether and how a person that seeks a
20 building permit for six or more residences within an active management
21 area, without regard to any proposed lease term for those residences,
22 should apply for and obtain a certificate of assured water supply from the
23 director before presenting the permit application for approval to the
24 county in which the land is located, unless the applicant has obtained a
25 written commitment of water service for the residences from a city, town
26 or private water company designated as having an assured water supply
27 pursuant to this section.

28 M. FOR THE PURPOSES OF DETERMINING WHETHER SUFFICIENT GROUNDWATER,
29 SURFACE WATER OR EFFLUENT OF ADEQUATE QUALITY WILL BE CONTINUOUSLY
30 AVAILABLE TO SATISFY THE WATER NEED OF THE PROPOSED USE, THE DIRECTOR MAY
31 CONSIDER ONLY THE PROPOSED SOURCE OR SOURCES OF THE SUPPLY DEDICATED TO
32 THE PROPOSED USE REGARDLESS OF WHETHER THE WATER IS DISTRIBUTED THROUGH A
33 WATER DELIVERY SYSTEM THAT IS COMMINGLED WITH OTHER SOURCES OF WATER
34 SUPPLY.

35 N. THE DIRECTOR MAY NOT REQUIRE A SUBDIVIDER THAT APPLIES FOR A
36 CERTIFICATE OF ASSURED WATER SUPPLY OR A COMMITMENT OF WATER SERVICE FROM
37 A WATER PROVIDER DESIGNATED AS HAVING AN ASSURED WATER SUPPLY TO PROCURE
38 OR DEDICATE A SOURCE OF SUPPLY THAT EXCEEDS ONE HUNDRED PERCENT OF THE
39 WATER NEEDED TO MEET THE SUBDIVIDER'S PROPOSED USE.

40 ~~M.~~ O. For the purposes of this section, "assured water supply"
41 means all of the following:

42 1. Sufficient groundwater, surface water or effluent of adequate
43 quality will be continuously available to satisfy the water needs of the
44 proposed use for at least one hundred years. Beginning January 1 of the
45 calendar year following the year in which a groundwater replenishment

1 district is required to submit its preliminary plan pursuant to section
2 45-576.02, subsection A, paragraph 1, with respect to an applicant that is
3 a member of the district, "sufficient groundwater" for the purposes of
4 this paragraph means that the proposed groundwater withdrawals that the
5 applicant will cause over a period of one hundred years will be of
6 adequate quality and will not exceed, in combination with other
7 withdrawals from land in the replenishment district, a depth to water of
8 one thousand feet or the depth of the bottom of the aquifer, whichever is
9 less. In determining depth to water for the purposes of this paragraph,
10 the director shall consider the combination of:

- 11 (a) The existing rate of decline.
- 12 (b) The proposed withdrawals.
- 13 (c) The expected water requirements of all recorded lots that are
14 not yet served water and that are located in the service area of a
15 municipal provider.

16 2. The projected groundwater use is consistent with the management
17 plan and achievement of the management goal for the active management
18 area.

19 3. The financial capability has been demonstrated to construct the
20 water facilities necessary to make the supply of water available for the
21 proposed use, including a delivery system and any storage facilities or
22 treatment works. The director may accept evidence of the construction
23 assurances required by section 9-463.01, ~~11-823~~ 11-822 or 32-2181 to
24 satisfy this requirement.