

REFERENCE TITLE: assured water supply; commingling

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

# HB 2017

Introduced by  
Representative Griffin

## 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 AN APPLICANT IS ISSUED A  
29 CERTIFICATE OR DESIGNATION OF ASSURED WATER SUPPLY PURSUANT TO THIS  
30 SECTION, THE DIRECTOR SHALL CONSIDER ANY TYPE OF WATER OR SOURCES OF WATER  
31 THAT ARE COMMINGLED TOGETHER.

32           ~~M.~~ N. For the purposes of this section, "assured water supply"  
33 means all of the following:

34           1. Sufficient groundwater, surface water or effluent of adequate  
35 quality will be continuously available to satisfy the water needs of the  
36 proposed use for at least one hundred years. Beginning January 1 of the  
37 calendar year following the year in which a groundwater replenishment  
38 district is required to submit its preliminary plan pursuant to section  
39 45-576.02, subsection A, paragraph 1, with respect to an applicant that is  
40 a member of the district, "sufficient groundwater" for the purposes of  
41 this paragraph means that the proposed groundwater withdrawals that the  
42 applicant will cause over a period of one hundred years will be of  
43 adequate quality and will not exceed, in combination with other  
44 withdrawals from land in the replenishment district, a depth to water of  
45 one thousand feet or the depth of the bottom of the aquifer, whichever is

1 less. In determining depth to water for the purposes of this paragraph,  
2 the director shall consider the combination of:

3 (a) The existing rate of decline.

4 (b) The proposed withdrawals.

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

8 2. The projected groundwater use is consistent with the management  
9 plan and achievement of the management goal for the active management  
10 area.

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