

Senate Engrossed House Bill
exempt wells; certificate; groundwater use

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

HOUSE BILL 2063

AN ACT

AMENDING SECTION 45-454, ARIZONA REVISED STATUTES; RELATING TO THE
GROUNDWATER CODE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

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

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18 aggregate quantity of groundwater withdrawn from the wells shall not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

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

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

31 1. Such wells are subject to subsections G through K of this
32 section.

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

38 3. In a subsequent active management area that is designated for a
39 portion of a groundwater basin in the regional aquifer systems of northern
40 Arizona, groundwater withdrawn from such wells may be used only for
41 domestic purposes and stock watering.

42 C. On or after January 1, 2006, an exempt well otherwise allowed by
43 this section may not be drilled on land if any part of the land is within
44 one hundred feet of the operating water distribution system of a municipal
45 provider with an assured water supply designation within the boundaries of

1 an active management area established on or before July 1, 1994, as shown
2 on a digitized service area map provided to the director by the municipal
3 provider and updated by the municipal provider as specified by the
4 director.

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

10 1. The landowner submitted a written request for service to the
11 municipal provider that operates the distribution system and the municipal
12 provider did not provide written verification to the landowner within
13 thirty calendar days after receipt of the request that water service is
14 available to the landowner after payment of any applicable fee to the
15 municipal provider.

16 2. The total capital cost and fees for connecting to the operating
17 water distribution system exceed the total capital cost and fees for
18 drilling and fully equipping an exempt well.

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

25 4. The landowner does not qualify for an exemption pursuant to
26 paragraph 1, 2 or 3 of this subsection and the landowner provides written
27 verification from the municipal provider that the landowner shall not
28 receive or request water service from the municipal provider while the
29 exempt well is operational. The exemption for that well is revoked if the
30 landowner or any subsequent landowner receives water service from the
31 municipal provider. In determining whether to approve or reject a permit
32 application filed under section 45-599, the director shall not consider
33 any impacts the proposed well may have on an exempt well drilled pursuant
34 to this paragraph.

35 E. This section does not prohibit a property owner, after January
36 1, 2006, from drilling a replacement exempt well for a lawful exempt well
37 if the replacement well does not increase the total number of operable
38 exempt wells on the applicant's land.

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

41 1. The remediation well is for an approved department of
42 environmental quality or United States environmental protection agency
43 remediation program.

44 2. A registered geologist certifies that the remediation well is
45 for the purpose of remediation.

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

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

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

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

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

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

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

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

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

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

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

35 M. AN EXEMPT WELL THAT IS REGISTERED WITH THE DEPARTMENT HAS A
36 RIGHT TO WITHDRAW NOT MORE THAN THIRTY-FIVE GALLONS PER MINUTE. THE
37 DIRECTOR SHALL ISSUE TO EACH GROUNDWATER USER THAT REGISTERS THE
38 GROUNDWATER USER'S EXEMPT WELL WITH THE DEPARTMENT A CERTIFICATE OF WATER
39 RIGHTS, WHICH ALLOWS THE GROUNDWATER USER TO PUMP NOT MORE THAN
40 THIRTY-FIVE GALLONS PER MINUTE. FOR THE PURPOSES OF THIS SUBSECTION:

41 1. A GROUNDWATER USER MAY NOT APPROPRIATE SUBFLOW OR SURFACE WATER
42 OUT OF PRIORITY.

43 2. THE WITHDRAWN WATER IS NOT EXEMPT FROM A GENERAL STREAM
44 ADJUDICATION.

- 1 3. THE FOLLOWING ARE NOT PREEMPTED OR AFFECTED:
2 (a) DECREED OR APPROPRIATIVE RIGHTS.
3 (b) SURFACE WATER AS DEFINED IN SECTION 45-101.
4 (c) WATER SUBJECT TO APPROPRIATION AS PRESCRIBED IN SECTION 45-141.
5 (d) A GENERAL ADJUDICATION OF WATER RIGHTS AS PRESCRIBED BY CHAPTER
6 1, ARTICLE 9 OF THIS TITLE.

7 ~~M.~~ N. For the purposes of this section:

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

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

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