

REFERENCE TITLE: groundwater savings certificate; assured water

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1041

Introduced by
Senators Hoffman: Kern, Wadsack; Representatives Chaplik, Griffin, Heap,
Hendrix, Jones, Kolodin, McGarr, Parker B, Parker J, Smith

AN ACT

AMENDING SECTION 45-576, 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 45-576, Arizona Revised Statutes, is amended to
3 read:

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

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 OR A GROUNDWATER SAVINGS
11 CERTIFICATE from the director before presenting the plat for approval to
12 the city, town or county in which the land is located, where such is
13 required, and before filing with the state real estate commissioner a
14 notice of intention to offer such lands for sale or lease, pursuant to
15 section 32-2181, unless the subdivider has obtained a written commitment
16 of water service for the subdivision from a city, town or private water
17 company designated as having an assured water supply OR A GROUNDWATER
18 SAVINGS CERTIFICATE pursuant to this section.

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

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

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

41 2. The subdivider has obtained a written commitment of water
42 service for the lands from a city, town or private water company
43 designated as having an assured water supply OR A GROUNDWATER SAVINGS
44 CERTIFICATE pursuant to this section and the subdivider, owner or agent

1 has paid any activation fee required under section 48-3772, subsection A,
2 paragraph 7.

3 D. The director shall designate private water companies in active
4 management areas that have an assured water supply OR A GROUNDWATER
5 SAVINGS CERTIFICATE. If a city or town acquires a private water company
6 that has contracted for central Arizona project water, the city or town
7 shall assume the private water company's contract for central Arizona
8 project water.

9 E. The director shall designate cities and towns in active
10 management areas where an assured water supply OR A GROUNDWATER SAVINGS
11 CERTIFICATE exists. If a city or town has entered into a contract for
12 central Arizona project water, the city or town is deemed to continue to
13 have an assured water supply until December 31, 1997. Commencing on
14 January 1, 1998, the determination that the city or town has an assured
15 water supply OR A GROUNDWATER SAVINGS CERTIFICATE is subject to review by
16 the director and the director may determine that a city or town does not
17 have an assured water supply OR A GROUNDWATER SAVINGS CERTIFICATE.

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

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

5 H. The director shall adopt rules to carry out the purposes of this
6 section. ~~On or before January 1, 2008,~~ The rules shall provide for a
7 reduction in water demand for an application for a designation of assured
8 water supply or a certificate of assured water supply if a gray water
9 reuse system will be installed that meets the requirements of the rules
10 adopted by the department of environmental quality for gray water systems
11 and if the application is for a certificate of assured water supply, the
12 land for which the certificate is sought must qualify as a member land in
13 a conservation district pursuant to title 48, chapter 22, article 4. ON
14 OR BEFORE JANUARY 1, 2024, THE RULES SHALL PROVIDE FOR A REDUCTION IN
15 WATER DEMAND FOR AN APPLICATION FOR A GROUNDWATER SAVINGS CERTIFICATE IF A
16 GRAY WATER SYSTEM WILL BE INSTALLED THAT MEETS THE REQUIREMENTS OF THE
17 RULES ADOPTED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR GRAY WATER
18 SYSTEMS AND IF THE APPLICATION IS FOR A GROUNDWATER SAVINGS CERTIFICATE,
19 THE LAND FOR WHICH THE CERTIFICATE IS SOUGHT MUST QUALIFY AS A MEMBER LAND
20 IN A CONSERVATION DISTRICT PURSUANT TO TITLE 48, CHAPTER 22, ARTICLE 4.
21 For the purposes of this subsection, "gray water" has the same meaning
22 prescribed in section 49-201.

23 I. If the director designates a municipal provider as having an
24 assured water supply OR A GROUNDWATER SAVINGS CERTIFICATE under this
25 section and the designation lapses or otherwise terminates while the
26 municipal provider's service area is a member service area of a
27 conservation district, the municipal provider or its successor shall
28 continue to comply with the consistency with management goal requirements
29 in the rules adopted by the director under subsection H of this section as
30 if the designation was still in effect with respect to the municipal
31 provider's designation uses. When determining compliance by the municipal
32 provider or its successor with the consistency with management goal
33 requirements in the rules, the director shall consider only water
34 delivered by the municipal provider or its successor to the municipal
35 provider's designation uses. A person is the successor of a municipal
36 provider if the person commences water service to uses that were
37 previously designation uses of the municipal provider. Any groundwater
38 delivered by the municipal provider or its successor to the municipal
39 provider's designation uses in excess of the amount allowed under the
40 consistency with management goal requirements in the rules shall be
41 considered excess groundwater for purposes of title 48, chapter 22. For
42 the purposes of this subsection, "designation uses" means all water uses
43 served by a municipal provider on the date the municipal provider's
44 designation of assured water supply OR GROUNDWATER SAVINGS CERTIFICATE
45 lapses or otherwise terminates and all recorded lots within the municipal

1 provider's service area that were not being served by the municipal
2 provider on that date but that received final plat approval from a city,
3 town or county on or before that date. Designation uses do not include
4 industrial uses served by an irrigation district under section 45-497.

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

8 1. The director issued a certificate of assured water supply **OR A**
9 **GROUNDWATER SAVINGS CERTIFICATE** for the land to a previous owner of the
10 land and the certificate was classified as a type A certificate under
11 rules adopted by the director pursuant to subsection H of this section.

12 2. The director has not revoked the certificate of assured water
13 supply **OR THE GROUNDWATER SAVINGS CERTIFICATE** described in paragraph 1 of
14 this subsection, and proceedings to revoke the certificate are not pending
15 before the department or a court. The department shall post on its
16 website a list of all certificates of assured water supply **OR GROUNDWATER**
17 **SAVINGS CERTIFICATES** that have been revoked or for which proceedings are
18 pending before the department or a court.

19 3. The plat submitted to the department in the application for the
20 certificate of assured water supply **OR GROUNDWATER SAVINGS CERTIFICATE**
21 described in paragraph 1 of this subsection has not changed.

22 4. Water service is currently available to each lot within the
23 subdivided land and the water provider listed on the certificate of
24 assured water supply **OR THE GROUNDWATER SAVINGS CERTIFICATE** described in
25 paragraph 1 of this subsection has not changed.

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

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

33 K. Subsection J of this section does not affect the assignment of a
34 certificate of assured water supply **OR A GROUNDWATER SAVINGS CERTIFICATE**
35 as prescribed by section 45-579.

36 L. On or before December 31, 2023, the director shall study and
37 submit to the governor, president of the senate and speaker of the house
38 of representatives a report on whether and how a person that seeks a
39 building permit for six or more residences within an active management
40 area, without regard to any proposed lease term for those residences,
41 should apply for and obtain a certificate of assured water supply from the
42 director before presenting the permit application for approval to the
43 county in which the land is located, unless the applicant has obtained a
44 written commitment of water service for the residences from a city, town

1 or private water company designated as having an assured water supply
2 pursuant to this section.

3 M. For the purposes of this section: ~~;~~

4 1. "Assured water supply" means all of the following:

5 ~~1-~~ (a) Sufficient groundwater, surface water or effluent of
6 adequate quality will be continuously available to satisfy the water needs
7 of the proposed use for at least one hundred years. Beginning January 1
8 of the calendar year following the year in which a groundwater
9 replenishment district is required to submit its preliminary plan pursuant
10 to section 45-576.02, subsection A, paragraph 1, with respect to an
11 applicant that is a member of the district, "sufficient groundwater" for
12 the purposes of this paragraph means that the proposed groundwater
13 withdrawals that the applicant will cause over a period of one hundred
14 years will be of adequate quality and will not exceed, in combination with
15 other withdrawals from land in the replenishment district, a depth to
16 water of one thousand feet or the depth of the bottom of the aquifer,
17 whichever is less. In determining depth to water for the purposes of this
18 paragraph, the director shall consider the combination of:

19 ~~(a)~~ (i) The existing rate of decline.

20 ~~(b)~~ (ii) The proposed withdrawals.

21 ~~(c)~~ (iii) The expected water requirements of all recorded lots
22 that are not yet served water and that are located in the service area of
23 a municipal provider.

24 ~~2-~~ (b) The projected groundwater use is consistent with the
25 management plan and achievement of the management goal for the active
26 management area.

27 ~~3-~~ (c) The financial capability has been demonstrated to construct
28 the water facilities necessary to make the supply of water available for
29 the proposed use, including a delivery system and any storage facilities
30 or treatment works. The director may accept evidence of the construction
31 assurances required by section 9-463.01, ~~11-823~~ 11-822 or 32-2181 to
32 satisfy this requirement.

33 2. "GROUNDWATER SAVINGS CERTIFICATE" MEANS ALL OF THE FOLLOWING:

34 (a) THE LAND THAT IS THE SUBJECT OF THE APPLICATION FOR A
35 GROUNDWATER SAVINGS CERTIFICATE IS OR WILL BE ENROLLED AS MEMBER LAND IN A
36 GROUNDWATER REPLENISHMENT DISTRICT AS AUTHORIZED BY SECTION 48-3774.

37 (b) THE APPLICANT HAS DEMONSTRATED PURSUANT TO GROUNDWATER MODELS
38 ADOPTED BY THE DIRECTOR THAT WELLS THAT ARE LOCATED OR HYPOTHETICALLY
39 LOCATED ON THE LAND THAT IS THE SUBJECT OF THE APPLICATION FOR A
40 GROUNDWATER SAVINGS CERTIFICATE OR WELLS THAT ARE LEGALLY AUTHORIZED TO
41 PROVIDE WATER SERVICE TO THAT LAND CAN BE OPERATED CONTINUOUSLY FOR ONE
42 HUNDRED YEARS AT THE ANNUAL DEMAND OF THE PROPOSED DEVELOPMENT WITHOUT
43 EXCEEDING AT THE LOCATION OF THE WELL OR WELLS A DEPTH TO WATER OF ONE
44 THOUSAND FEET OR THE DEPTH OF THE BOTTOM OF THE AQUIFER, WHICHEVER IS
45 LESS.

1 (c) THE APPLICANT FOR A GROUNDWATER SAVINGS CERTIFICATE MAKES NO
2 CLAIM TO ANY SEWAGE OR EFFLUENT THAT MAY BE PRODUCED FROM THE USE OF WATER
3 ON THE LAND AND RELINQUISHES ANY CLAIM TO THE AUTHORIZED SEWAGE TREATMENT
4 PROVIDER THAT WILL PROVIDE SEWER SERVICE TO THE LAND.

5 Sec. 2. Short title

6 This act may be cited as the "Groundwater Protection and Housing
7 Affordability Act".

8 Sec. 3. Conforming legislation

9 The legislative council staff shall prepare proposed legislation
10 conforming the Arizona Revised Statutes to the provisions of this act for
11 consideration in the fifty-seventh legislature, first regular session.