

REFERENCE TITLE: ADWR; application; review; time frames

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

SB 1242

Introduced by
Senators Shope: Kerr

AN ACT

AMENDING SECTIONS 41-1074 AND 45-576, ARIZONA REVISED STATUTES; RELATING
TO THE DEPARTMENT OF WATER RESOURCES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-1074, Arizona Revised Statutes, is amended to
3 read:

4 41-1074. Compliance with administrative completeness review
5 time frame

6 A. An agency shall issue a written notice of administrative
7 completeness or deficiencies to an applicant for a license within the
8 administrative completeness review time frame.

9 B. If an agency determines that an application for a license is not
10 administratively complete, the agency shall include a comprehensive list
11 of the specific deficiencies in the written notice provided pursuant to
12 subsection A of this section. If the agency issues a written notice of
13 deficiencies within the administrative completeness time frame, the
14 administrative completeness review time frame and the overall time frame
15 are suspended from the date the notice is issued until the date that the
16 agency receives the missing information from the applicant.

17 C. If an agency does not issue a written notice of administrative
18 completeness or deficiencies within the administrative completeness review
19 time frame, the application is deemed administratively complete. If an
20 agency issues a timely written notice of deficiencies, an application is
21 not complete until the agency receives all requested information.

22 D. ~~Except for an application submitted to the department of water~~
23 ~~resources pursuant to title 45,~~ A determination by an agency that an
24 application is not administratively complete is an appealable agency
25 action, which if timely initiated, entitles the applicant to an
26 adjudication on the merits of the administrative completeness of the
27 application.

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

30 45-576. Certificate of assured water supply; designated
31 cities, towns and private water companies;
32 exemptions; definitions

33 A. Except as provided in subsections G and J of this section, a
34 person who proposes to offer subdivided lands, as defined in section
35 32-2101, for sale or lease in an active management area shall apply for
36 and obtain a certificate of assured water supply from the director before
37 presenting the plat for approval to the city, town or county in which the
38 land is located, where such is required, and before filing with the state
39 real estate commissioner a notice of intention to offer such lands for
40 sale or lease, pursuant to section 32-2181, unless the subdivider has
41 obtained a written commitment of water service for the subdivision from a
42 city, town or private water company designated as having an assured water
43 supply pursuant to this section.

44 B. Except as provided in subsections G and J of this section, a
45 city, town or county may approve a subdivision plat only if the subdivider

1 has obtained a certificate of assured water supply from the director or
2 the subdivider has obtained a written commitment of water service for the
3 subdivision from a city, town or private water company designated as
4 having an assured water supply pursuant to this section. The city, town
5 or county shall note on the face of the approved plat that a certificate
6 of assured water supply has been submitted with the plat or that the
7 subdivider has obtained a written commitment of water service for the
8 proposed subdivision from a city, town or private water company designated
9 as having an assured water supply pursuant to this section.

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

14 1. The subdivider, owner or agent has paid any activation fee
15 required under section 48-3772, subsection A, paragraph 7 and any
16 replenishment reserve fee required under section 48-3774.01, subsection A,
17 paragraph 2 and has obtained a certificate of assured water supply from
18 the director.

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

24 D. The director shall designate private water companies in active
25 management areas that have an assured water supply. If a city or town
26 acquires a private water company that has contracted for central Arizona
27 project water, the city or town shall assume the private water company's
28 contract for central Arizona project water.

29 E. The director shall designate cities and towns in active
30 management areas where an assured water supply exists. If a city or town
31 has entered into a contract for central Arizona project water, the city or
32 town is deemed to continue to have an assured water supply until December
33 31, 1997. Commencing on January 1, 1998, the determination that the city
34 or town has an assured water supply is subject to review by the director
35 and the director may determine that a city or town does not have an
36 assured water supply.

37 F. The director shall notify the mayors of all cities and towns in
38 active management areas and the chairmen of the boards of supervisors of
39 counties in which active management areas are located of the cities, towns
40 and private water companies designated as having an assured water supply
41 and any modification of that designation within thirty days ~~of~~ AFTER the
42 designation or modification. If the service area of the city, town or
43 private water company has qualified as a member service area pursuant to
44 title 48, chapter 22, article 4, the director shall also notify the
45 conservation district of the designation or modification and shall report

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

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

22 H. The director shall adopt rules to carry out the purposes of this
23 section. ~~On or before January 1, 2008,~~ The rules shall provide for a
24 reduction in water demand for an application for a designation of assured
25 water supply or a certificate of assured water supply if a gray water
26 reuse system will be installed that meets the requirements of the rules
27 adopted by the department of environmental quality for gray water systems
28 and if the application is for a certificate of assured water supply, the
29 land for which the certificate is sought must qualify as a member land in
30 a conservation district pursuant to title 48, chapter 22, article 4. For
31 the purposes of this subsection, "gray water" has the same meaning
32 prescribed in section 49-201.

33 I. If the director designates a municipal provider as having an
34 assured water supply under this section and the designation lapses or
35 otherwise terminates while the municipal provider's service area is a
36 member service area of a conservation district, the municipal provider or
37 its successor shall continue to comply with the consistency with
38 management goal requirements in the rules adopted by the director under
39 subsection H of this section as if the designation was still in effect
40 with respect to the municipal provider's designation uses. When
41 determining compliance by the municipal provider or its successor with the
42 consistency with management goal requirements in the rules, the director
43 shall consider only water delivered by the municipal provider or its
44 successor to the municipal provider's designation uses. A person is the
45 successor of a municipal provider if the person commences water service to

1 uses that were previously designation uses of the municipal provider. Any
2 groundwater delivered by the municipal provider or its successor to the
3 municipal provider's designation uses in excess of the amount allowed
4 under the consistency with management goal requirements in the rules shall
5 be considered excess groundwater for purposes of title 48, chapter 22.
6 For the purposes of this subsection, "designation uses" means all water
7 uses served by a municipal provider on the date the municipal provider's
8 designation of assured water supply lapses or otherwise terminates and all
9 recorded lots within the municipal provider's service area that were not
10 being served by the municipal provider on that date but that received
11 final plat approval from a city, town or county on or before that date.
12 Designation uses do not include industrial uses served by an irrigation
13 district under section 45-497.

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

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

21 2. The director has not revoked the certificate of assured water
22 supply described in paragraph 1 of this subsection, and proceedings to
23 revoke the certificate are not pending before the department or a court.
24 The department shall post on its website a list of all certificates of
25 assured water supply that have been revoked or for which proceedings are
26 pending before the department or a court.

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

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

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

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

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

43 L. On or before December 31, 2023, the director shall study and
44 submit to the governor, president of the senate and speaker of the house
45 of representatives a report on whether and how a person that seeks a

1 building permit for six or more residences within an active management
2 area, without regard to any proposed lease term for those residences,
3 should apply for and obtain a certificate of assured water supply from the
4 director before presenting the permit application for approval to the
5 county in which the land is located, unless the applicant has obtained a
6 written commitment of water service for the residences from a city, town
7 or private water company designated as having an assured water supply
8 pursuant to this section.

9 M. THE DIRECTOR SHALL MAKE DETERMINATIONS FOR AN APPLICATION FOR A
10 NEW OR MODIFIED CERTIFICATE, DESIGNATION OR ANALYSIS OF ASSURED WATER
11 SUPPLY WITHIN THE FOLLOWING LICENSING TIME FRAMES:

12 1. FOR THE ADMINISTRATIVE COMPLETENESS REVIEW TIME FRAME, NINETY
13 DAYS OR LESS.

14 2. FOR THE SUBSTANTIVE REVIEW TIME FRAME, THIRTY DAYS OR LESS.

15 3. FOR THE OVERALL TIME FRAME, ONE HUNDRED TWENTY DAYS OR LESS.

16 ~~M.~~ N. For the purposes of this section: ~~;~~

17 1. "ADMINISTRATIVE COMPLETENESS REVIEW TIME FRAME" HAS THE SAME
18 MEANING PRESCRIBED IN SECTION 41-1072.

19 2. "Assured water supply" means all of the following:

20 ~~1.~~ (a) Sufficient groundwater, surface water or effluent of
21 adequate quality will be continuously available to satisfy the water needs
22 of the proposed use for at least one hundred years. Beginning January 1
23 of the calendar year following the year in which a groundwater
24 replenishment district is required to submit its preliminary plan pursuant
25 to section 45-576.02, subsection A, paragraph 1, with respect to an
26 applicant that is a member of the district, "sufficient groundwater" for
27 the purposes of this paragraph means that the proposed groundwater
28 withdrawals that the applicant will cause over a period of one hundred
29 years will be of adequate quality and will not exceed, in combination with
30 other withdrawals from land in the replenishment district, a depth to
31 water of one thousand feet or the depth of the bottom of the aquifer,
32 whichever is less. In determining depth to water for the purposes of this
33 paragraph, the director shall consider the combination of:

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

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

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

39 ~~2.~~ (b) The projected groundwater use is consistent with the
40 management plan and achievement of the management goal for the active
41 management area.

42 ~~3.~~ (c) The financial capability has been demonstrated to construct
43 the water facilities necessary to make the supply of water available for
44 the proposed use, including a delivery system and any storage facilities
45 or treatment works. The director may accept evidence of the construction

1 assurances required by section 9-463.01, ~~11-823~~ 11-822 or 32-2181 to
2 satisfy this requirement.

3 3. "OVERALL TIME FRAME" HAS THE SAME MEANING AS PRESCRIBED IN
4 SECTION 41-1072.

5 4. "SUBSTANTIVE REVIEW TIME FRAME" HAS THE SAME MEANING PRESCRIBED
6 IN SECTION 41-1072.