

REFERENCE TITLE: subdivisions; assured water supply; lots

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

SB 1326

Introduced by
Senators Sundareshan: Alston, Bravo, Burch, Diaz, Epstein, Fernandez,
Gabaldón, Gonzales, Hatathlie, Hernandez, Marsh, Mendez, Miranda

AN ACT

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

(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, ONE OR MORE LOTS, PARCELS OR FRACTIONAL INTERESTS IN LAND~~ for
10 sale or lease, ~~WITHOUT REGARD TO THE DURATION OF THE LEASE,~~ in an active
11 management area shall apply for and obtain a certificate of assured water
12 supply from the director before presenting the plat for approval to the
13 city, town or county in which the land is located, where ~~such~~ APPROVAL OF
14 THE PLAT is required AND, IF APPROVAL OF A PLAT IS NOT REQUIRED, BEFORE
15 OFFERING THE PROPERTY FOR SALE OR LEASE, and before filing with the state
16 real estate commissioner a notice of intention to offer such lands for
17 sale or lease, ~~IF REQUIRED~~ pursuant to section 32-2181, unless the
18 ~~subdivider~~ PERSON has obtained a written commitment of water service for
19 the ~~subdivision~~ PROPERTY from a city, town or private water company
20 designated as having an assured water supply pursuant to this section.

21 B. Except as provided in subsections G and J of this section, a
22 city, town or county may approve a ~~subdivision~~ plat only if the ~~subdivider~~
23 PERSON PRESCRIBED BY SUBSECTION A OF THIS SECTION has obtained a
24 certificate of assured water supply from the director or the ~~subdivider~~
25 PERSON has obtained a written commitment of water service for the
26 ~~subdivision~~ PROPERTY from a city, town or private water company designated
27 as having an assured water supply pursuant to this section. The city,
28 town or county shall note on the face of the approved plat that a
29 certificate of assured water supply has been submitted with the plat or
30 that the ~~subdivider~~ PERSON PRESCRIBED BY SUBSECTION A OF THIS SECTION has
31 obtained a written commitment of water service for the proposed
32 subdivision from a city, town or private water company designated as
33 having an assured water supply pursuant to this section. FOR A PROPERTY
34 THAT DOES NOT REQUIRE APPROVAL OF A PLAT, THE CITY, TOWN OR COUNTY MAY
35 APPROVE A BUILDING PERMIT FOR THE PROPERTY ONLY IF THE PROPERTY HAS A
36 CERTIFICATE OF ASSURED WATER SUPPLY FROM THE DIRECTOR OR A WRITTEN
37 COMMITMENT OF WATER SERVICE FROM A CITY, TOWN OR PRIVATE WATER COMPANY
38 DESIGNATED AS HAVING AN ASSURED WATER SUPPLY.

39 C. Except as provided in subsections G and J of this section, the
40 state real estate commissioner may issue a public report authorizing the
41 sale or lease of subdivided lands AS DEFINED IN SECTION 32-2101 only on
42 compliance with either of the following:

43 1. The subdivider, owner or agent has paid any activation fee
44 required under section 48-3772, subsection A, paragraph 7 and any
45 replenishment reserve fee required under section 48-3774.01, subsection A,

1 paragraph 2 and has obtained a certificate of assured water supply from
2 the director.

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

8 D. The director shall designate private water companies in active
9 management areas that have an assured water supply. If a city or town
10 acquires a private water company that has contracted for central Arizona
11 project water, the city or town shall assume the private water company's
12 contract for central Arizona project water.

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

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

1 lease are exempt from applying for and obtaining a certificate of assured
2 water supply.

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

7 H. The director shall adopt rules to carry out the purposes of this
8 section. ~~On or before January 1, 2008,~~ The rules shall provide for a
9 reduction in water demand for an application for a designation of assured
10 water supply or a certificate of assured water supply if a gray water
11 reuse system will be installed that meets the requirements of the rules
12 adopted by the department of environmental quality for gray water systems
13 and if the application is for a certificate of assured water supply, the
14 land for which the certificate is sought must qualify as a member land in
15 a conservation district pursuant to title 48, chapter 22, article 4. For
16 the purposes of this subsection, "gray water" has the same meaning
17 prescribed in section 49-201.

18 I. If the director designates a municipal provider as having an
19 assured water supply under this section and the designation lapses or
20 otherwise terminates while the municipal provider's service area is a
21 member service area of a conservation district, the municipal provider or
22 its successor shall continue to comply with the consistency with
23 management goal requirements in the rules adopted by the director under
24 subsection H of this section as if the designation was still in effect
25 with respect to the municipal provider's designation uses. When
26 determining compliance by the municipal provider or its successor with the
27 consistency with management goal requirements in the rules, the director
28 shall consider only water delivered by the municipal provider or its
29 successor to the municipal provider's designation uses. A person is the
30 successor of a municipal provider if the person commences water service to
31 uses that were previously designation uses of the municipal provider. Any
32 groundwater delivered by the municipal provider or its successor to the
33 municipal provider's designation uses in excess of the amount allowed
34 under the consistency with management goal requirements in the rules shall
35 be considered excess groundwater for purposes of title 48, chapter 22.
36 For the purposes of this subsection, "designation uses" means all water
37 uses served by a municipal provider on the date the municipal provider's
38 designation of assured water supply lapses or otherwise terminates and all
39 recorded lots within the municipal provider's service area that were not
40 being served by the municipal provider on that date but that received
41 final plat approval from a city, town or county on or before that date.
42 Designation uses do not include industrial uses served by an irrigation
43 district under section 45-497.

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

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

8 2. The director has not revoked the certificate of assured water
9 supply described in paragraph 1 of this subsection, and proceedings to
10 revoke the certificate are not pending before the department or a court.
11 The department shall post on its website a list of all certificates of
12 assured water supply that have been revoked or for which proceedings are
13 pending before the department or a court.

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

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

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

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

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

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

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

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

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

12 (a) The existing rate of decline.

13 (b) The proposed withdrawals.

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

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

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