



Bill Number: S.B. 1134

Werner Floor Amendment

Reference to: printed bill

Amendment drafted by: Sawyer Bessler

FLOOR AMENDMENT EXPLANATION

- 1. Decreases the administrative completeness review time frame, when the Director of the Arizona Department of Water Resources (ADWR) is making determinations for an application for a new or modified certificate, designation or analysis of assured water supply, from 90 days to 30 days.**
- 2. Increases the substantive review time frame, when the Director of ADWR is making determinations for an application for a new or modified certificate, designation or analysis of assured water supply, from 30 days to 90 days.**

WERNER FLOOR AMENDMENT
SENATE AMENDMENTS TO S.B. 1134
(Reference to printed bill)

Amendment instruction key:

[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.

[Green underlining in brackets] indicates text added to new session law or text restoring existing law.

[~~GREEN STRIKEOUT IN BRACKETS~~] indicates new text removed from statute or previously enacted session law.

[~~Green strikeout in brackets~~] indicates text removed from existing statute, previously enacted session law or new session law.

<<Green carets>> indicate a section added to the bill.

<<~~Green strikeout in carets~~>> indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

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.

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

3 45-576. Certificate of assured water supply; designated
4 cities, towns and private water companies;
5 exemptions; definitions

6 A. Except as provided in subsections G and J of this section, a
7 person who proposes to offer subdivided lands, as defined in section
8 32-2101, for sale or lease in an active management area shall apply for
9 and obtain a certificate of assured water supply from the director before
10 presenting the plat for approval to the city, town or county in which the
11 land is located, where such is required, and before filing with the state
12 real estate commissioner a notice of intention to offer such lands for
13 sale or lease, pursuant to section 32-2181, unless the subdivider has
14 obtained a written commitment of water service for the subdivision from a
15 city, town or private water company designated as having an assured water
16 supply pursuant to this section.

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

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

32 1. The subdivider, owner or agent has paid any activation fee
33 required under section 48-3772, subsection A, paragraph 7 and any
34 replenishment reserve fee required under section 48-3774.01, subsection A,
35 paragraph 2 and has obtained a certificate of assured water supply from
36 the director.

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

42 D. The director shall designate private water companies in active
43 management areas that have an assured water supply. If a city or town
44 acquires a private water company that has contracted for central Arizona
45 project water, the city or town shall assume the private water company's
46 contract for central Arizona project water.

1 E. The director shall designate cities and towns in active
2 management areas where an assured water supply exists. If a city or town
3 has entered into a contract for central Arizona project water, the city or
4 town is deemed to continue to have an assured water supply until December
5 31, 1997. Commencing on January 1, 1998, the determination that the city
6 or town has an assured water supply is subject to review by the director
7 and the director may determine that a city or town does not have an
8 assured water supply.

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

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

39 H. The director shall adopt rules to carry out the purposes of this
40 section. ~~On or before January 1, 2008,~~ The rules shall provide for a
41 reduction in water demand for an application for a designation of assured
42 water supply or a certificate of assured water supply if a gray water
43 reuse system will be installed that meets the requirements of the rules
44 adopted by the department of environmental quality for gray water systems
45 and if the application is for a certificate of assured water supply, the
46 land for which the certificate is sought must qualify as a member land in
47 a conservation district pursuant to title 48, chapter 22, article 4. For

1 the purposes of this subsection, "gray water" has the same meaning
2 prescribed in section 49-201.

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

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

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

36 2. The director has not revoked the certificate of assured water
37 supply described in paragraph 1 of this subsection, and proceedings to
38 revoke the certificate are not pending before the department or a court.
39 The department shall post on its website a list of all certificates of
40 assured water supply that have been revoked or for which proceedings are
41 pending before the department or a court.

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

45 4. Water service is currently available to each lot within the
46 subdivided land and the water provider listed on the certificate of

1 assured water supply described in paragraph 1 of this subsection has not
2 changed.

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

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

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

12 L. On or before December 31, 2023, the director shall study and
13 submit to the governor, president of the senate and speaker of the house
14 of representatives a report on whether and how a person that seeks a
15 building permit for six or more residences within an active management
16 area, without regard to any proposed lease term for those residences,
17 should apply for and obtain a certificate of assured water supply from the
18 director before presenting the permit application for approval to the
19 county in which the land is located, unless the applicant has obtained a
20 written commitment of water service for the residences from a city, town
21 or private water company designated as having an assured water supply
22 pursuant to this section.

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

26 1. FOR THE ADMINISTRATIVE COMPLETENESS REVIEW TIME FRAME,
27 ~~[NINETY]~~[THIRTY] DAYS OR LESS.

28 2. FOR THE SUBSTANTIVE REVIEW TIME FRAME, ~~[THIRTY]~~[NINETY] DAYS OR
29 LESS.

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

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

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

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

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

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

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

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

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

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

11 ~~3.~~ (c) The financial capability has been demonstrated to construct
12 the water facilities necessary to make the supply of water available for
13 the proposed use, including a delivery system and any storage facilities
14 or 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.

17 3. "OVERALL TIME FRAME" HAS THE SAME MEANING PRESCRIBED IN SECTION
18 41-1072.

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

21 Enroll and engross to conform

22 Amend title to conform

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