

COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2298
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 45, chapter 2, article 5, Arizona Revised
3 Statutes, is amended by adding section 45-465.05, to read:

4 45-465.05. Permanent relinquishment of irrigation
5 grandfathered rights; physical availability
6 exemption credits; assured water supply;
7 definitions

8 A. A PERSON WHO OWNS LAND WITHIN AN ACTIVE MANAGEMENT AREA THAT MAY
9 BE LEGALLY IRRIGATED WITH GROUNDWATER PURSUANT TO AN IRRIGATION
10 GRANDFATHERED RIGHT MAY PERMANENTLY RELINQUISH ALL OR A PORTION OF THE
11 IRRIGATION GRANDFATHERED RIGHT IN EXCHANGE FOR A PHYSICAL AVAILABILITY
12 EXEMPTION CREDIT IF BOTH OF THE FOLLOWING APPLY:

13 1. WITHIN A REASONABLE TIME BEFORE OR AFTER THE LAND IS RETIRED, THE
14 PERSON APPLIES TO THE DIRECTOR TO PERMANENTLY RELINQUISH ALL OR A PORTION
15 OF THE IRRIGATION GRANDFATHERED RIGHT IN EXCHANGE FOR A PHYSICAL
16 AVAILABILITY EXEMPTION CREDIT.

17 2. THE PERSON'S USE OF THE IRRIGATION GRANDFATHERED RIGHT COMPLIES
18 WITH THIS CHAPTER AND THE APPLICABLE MANAGEMENT PLAN.

19 B. A PERSON WHO RECEIVES A PHYSICAL AVAILABILITY EXEMPTION CREDIT
20 MAY CHOOSE TO ANNUALLY WITHDRAW AND USE THE FOLLOWING VOLUME OF GROUNDWATER
21 PURSUANT TO THIS SECTION AS FOLLOWS:

22 1. IN THE PHOENIX AND TUCSON ACTIVE MANAGEMENT AREAS:

1 (a) TWO ACRE-FEET PER IRRIGATION ACRE IN THE FARM OR PORTION OF THE
2 FARM. IF THE VOLUME OF THE CREDIT IS TWO ACRE-FEET PER IRRIGATION ACRE,
3 SIXTY-SEVEN PERCENT OF THE GROUNDWATER USED ON THAT PARCEL OF LAND MUST BE
4 REPLENISHED IN ACCORDANCE WITH THE APPLICABLE ASSURED WATER SUPPLY RULES
5 ADOPTED BY THE DEPARTMENT FOR THE ACTIVE MANAGEMENT AREA WHERE THE LAND IS
6 LOCATED, AND THIRTY-THREE PERCENT OF THE GROUNDWATER USED IS DEEMED
7 CONSISTENT WITH ACHIEVEMENT OF THE MANAGEMENT GOAL PURSUANT TO SECTION
8 45-576, SUBSECTION N, PARAGRAPH 2 AND SECTION 45-576.01.

9 (b) ONE AND ONE-HALF ACRE-FEET PER IRRIGATION ACRE IN THE FARM OR
10 PORTION OF THE FARM. IF THE VOLUME OF THE CREDIT IS ONE AND ONE-HALF
11 ACRE-FEET PER IRRIGATION ACRE, FIFTY PERCENT OF THE GROUNDWATER USED ON
12 THAT PARCEL OF LAND MUST BE REPLENISHED IN ACCORDANCE WITH THE APPLICABLE
13 ASSURED WATER SUPPLY RULES ADOPTED BY THE DEPARTMENT FOR THE ACTIVE
14 MANAGEMENT AREA WHERE THE LAND IS LOCATED, AND FIFTY PERCENT OF THE
15 GROUNDWATER USED IS DEEMED CONSISTENT WITH ACHIEVEMENT OF THE MANAGEMENT
16 GOAL PURSUANT TO SECTION 45-576, SUBSECTION N, PARAGRAPH 2 AND SECTION
17 45-576.01.

18 (c) ONE ACRE-FOOT PER IRRIGATION ACRE IN THE FARM OR PORTION OF THE
19 FARM. IF THE VOLUME OF THE CREDIT IS ONE-ACRE FOOT PER IRRIGATION ACRE,
20 THIRTY-THREE PERCENT OF THE GROUNDWATER USED ON THAT PARCEL OF LAND MUST BE
21 REPLENISHED IN ACCORDANCE WITH THE APPLICABLE ASSURED WATER SUPPLY RULES
22 ADOPTED BY THE DEPARTMENT FOR THE ACTIVE MANAGEMENT AREA WHERE THE LAND IS
23 LOCATED, AND SIXTY-SEVEN PERCENT OF THE GROUNDWATER USED IS DEEMED
24 CONSISTENT WITH ACHIEVEMENT OF THE MANAGEMENT GOAL PURSUANT TO SECTION
25 45-576, SUBSECTION N, PARAGRAPH 2 AND SECTION 45-576.01.

26 2. IN THE PINAL ACTIVE MANAGEMENT AREA:

27 (a) ONE AND ONE-HALF ACRE-FEET PER IRRIGATION ACRE IN THE FARM OR
28 PORTION OF THE FARM. IF THE VOLUME OF THE CREDIT IS ONE AND ONE-HALF
29 ACRE-FEET PER IRRIGATION ACRE, ONE HUNDRED PERCENT OF THE GROUNDWATER USED
30 ON THAT PARCEL OF LAND MUST BE REPLENISHED IN ACCORDANCE WITH THE
31 APPLICABLE ASSURED WATER SUPPLY RULES ADOPTED BY THE DEPARTMENT FOR THE
32 ACTIVE MANAGEMENT AREA WHERE THE LAND IS LOCATED, AND NONE OF THE

1 GROUNDWATER USED IS DEEMED CONSISTENT WITH ACHIEVEMENT OF THE MANAGEMENT
2 GOAL PURSUANT TO SECTION 45-576, SUBSECTION N, PARAGRAPH 2 AND SECTION
3 45-576.01.

4 (b) ONE ACRE-FOOT PER IRRIGATION ACRE IN THE FARM OR PORTION OF THE
5 FARM. IF THE VOLUME OF THE CREDIT IS ONE ACRE-FOOT PER IRRIGATION ACRE,
6 SIXTY-SEVEN PERCENT OF THE GROUNDWATER USED ON THAT PARCEL OF LAND MUST BE
7 REPLENISHED IN ACCORDANCE WITH THE APPLICABLE ASSURED WATER SUPPLY RULES
8 ADOPTED BY THE DEPARTMENT FOR THE ACTIVE MANAGEMENT AREA WHERE THE LAND IS
9 LOCATED, AND THIRTY-THREE PERCENT OF THE GROUNDWATER USED IS DEEMED
10 CONSISTENT WITH ACHIEVEMENT OF THE MANAGEMENT GOAL PURSUANT TO SECTION
11 45-576, SUBSECTION N, PARAGRAPH 2 AND SECTION 45-576.01.

12 (c) ONE-HALF ACRE-FOOT PER IRRIGATION ACRE IN THE FARM OR PORTION OF
13 THE FARM. IF THE VOLUME OF THE CREDIT IS ONE-HALF ACRE-FOOT PER IRRIGATION
14 ACRE, THIRTY-THREE PERCENT OF THE GROUNDWATER USED ON THAT PARCEL OF LAND
15 MUST BE REPLENISHED IN ACCORDANCE WITH THE APPLICABLE ASSURED WATER SUPPLY
16 RULES ADOPTED BY THE DEPARTMENT FOR THE ACTIVE MANAGEMENT AREA WHERE THE
17 LAND IS LOCATED, AND SIXTY-SEVEN PERCENT OF THE GROUNDWATER USED IS DEEMED
18 CONSISTENT WITH ACHIEVEMENT OF THE MANAGEMENT GOAL PURSUANT TO SECTION
19 45-576, SUBSECTION N, PARAGRAPH 2 AND SECTION 45-576.01.

20 C. THE DIRECTOR SHALL IDENTIFY ALL OF THE FOLLOWING WHEN ISSUING A
21 PHYSICAL AVAILABILITY EXEMPTION CREDIT:

22 1. THE VOLUME OF GROUNDWATER THAT MAY BE WITHDRAWN AND USED AND THE
23 CORRESPONDING REPLENISHMENT OBLIGATION AS CALCULATED PURSUANT TO SUBSECTION
24 B OF THIS SECTION.

25 2. THE NUMBER AND LOCATION OF THE ACRES THAT ARE ASSOCIATED WITH THE
26 RELINQUISHMENT.

27 3. THE WELLS THAT HAVE BEEN USED TO SERVE THE IRRIGATION
28 GRANDFATHERED RIGHT.

29 4. THE OWNER OF THE LAND AT THE TIME OF THE RELINQUISHMENT, WHICH
30 SHALL BE THE HOLDER OF THE PHYSICAL AVAILABILITY EXEMPTION CREDIT.

31 5. THE DIRECTOR'S DETERMINATION WHETHER THE CRITERIA PRESCRIBED IN
32 SUBSECTION D, PARAGRAPH 3, SUBDIVISION (b) OF THIS SECTION WOULD BE

1 SATISFIED BASED ON THE DIRECTOR'S MOST RECENT ASSURED WATER SUPPLY
2 PROJECTION. THIS DETERMINATION SHALL BE APPLIED TO AN ASSURED WATER SUPPLY
3 APPLICATION THAT IS SUBMITTED TO THE DEPARTMENT WITHIN TWO YEARS AFTER THE
4 DATE THE PHYSICAL AVAILABILITY EXEMPTION CREDIT IS ISSUED AND SHALL REMAIN
5 VALID UNTIL THE DIRECTOR MAKES A FINAL DECISION ON THE ASSURED WATER SUPPLY
6 APPLICATION.

7 D. ON REQUEST OF THE HOLDER OF A PHYSICAL AVAILABILITY EXEMPTION
8 CREDIT FOR PURPOSES OF AN APPLICATION FOR AN ASSURED WATER SUPPLY, THE
9 VOLUME OF GROUNDWATER CALCULATED PURSUANT TO SUBSECTION B OF THIS SECTION
10 SHALL BE EXEMPT FROM THE REQUIREMENT TO DEMONSTRATE THAT THE GROUNDWATER
11 SUPPLY IS PHYSICALLY AVAILABLE IN ACCORDANCE WITH SECTION 45-576 IF ALL OF
12 THE FOLLOWING APPLY:

13 1. THE PROPOSED GROUNDWATER USE ASSOCIATED WITH AN APPLICATION FOR
14 AN ASSURED WATER SUPPLY IS ON ONE OR MORE OF THE FOLLOWING LOCATIONS:

15 (a) THE RETIRED IRRIGATION ACRES.

16 (b) LAND WITHIN ONE MILE OF THE EXTERIOR BOUNDARY OF THE RETIRED
17 IRRIGATION ACRES. FOR THE PURPOSES OF THIS SUBDIVISION, IF A PORTION OF A
18 PARCEL OF LAND IS WITHIN ONE MILE OF THE EXTERIOR BOUNDARY, THE ENTIRE
19 PARCEL SHALL BE INCLUDED.

20 2. THE APPLICANT FOR AN ASSURED WATER SUPPLY PROPOSES TO WITHDRAW
21 GROUNDWATER FROM ONE OR MORE OF THE FOLLOWING LOCATIONS:

22 (a) WELLS THAT WERE USED TO SERVE THE IRRIGATION GRANDFATHERED
23 RIGHT.

24 (b) WELLS LOCATED WITHIN ONE MILE OF ANY WELL THAT WAS USED TO SERVE
25 THE IRRIGATION GRANDFATHERED RIGHT.

26 (c) WELLS LOCATED ON THE ACRES ASSOCIATED WITH THE RELINQUISHMENT.

27 (d) WELLS LOCATED WITHIN ONE MILE OF THE ACRES ASSOCIATED WITH THE
28 RELINQUISHMENT.

29 3. THE APPLICANT DEMONSTRATES, USING A METHOD OF ANALYSIS APPROVED
30 BY THE DIRECTOR, THAT GROUNDWATER CAN BE WITHDRAWN TO SERVE THE PROPOSED
31 USE FOR ONE HUNDRED YEARS WITHOUT EXCEEDING THE DEPTH OF THE AQUIFER OR THE

1 APPLICABLE DEPTH-TO-STATIC WATER LEVEL AS PRESCRIBED BY SUBSECTION K OF
2 THIS SECTION, WHICHEVER IS LESS. FOR THE PURPOSES OF THIS DEMONSTRATION:

3 (a) THE DIRECTOR SHALL NOT CONSIDER OTHER WITHDRAWALS OF GROUNDWATER
4 THAT EXCEED THE DEPTH OF THE AQUIFER OR THE APPLICABLE DEPTH-TO-STATIC
5 WATER LEVEL DURING THE ONE HUNDRED-YEAR PERIOD.

6 (b) FOR GROUNDWATER WITHDRAWALS LOCATED WITHIN ONE MILE OF ANY WELL
7 THAT WAS USED TO SERVE THE IRRIGATION GRANDFATHERED RIGHT PURSUANT TO
8 PARAGRAPH 2, SUBDIVISION (b) OF THIS SUBSECTION, THE APPLICANT MAY RELY ON
9 THE DIRECTOR'S MOST RECENT ASSURED WATER SUPPLY PROJECTION TO SATISFY THIS
10 REQUIREMENT.

11 E. ON REQUEST FROM THE HOLDER OF AN IRRIGATION GRANDFATHERED RIGHT,
12 THE DIRECTOR SHALL MAKE A DETERMINATION TO GRANT A PHYSICAL AVAILABILITY
13 EXEMPTION CREDIT WITHIN AN OVERALL TIME FRAME OF NINETY DAYS PURSUANT TO
14 THE LICENSING TIME FRAMES PRESCRIBED IN TITLE 41, CHAPTER 6, ARTICLE 7.1.
15 THE OVERALL TIME FRAME SHALL INCLUDE THIRTY DAYS FOR AN ADMINISTRATIVE
16 COMPLETENESS REVIEW AND SIXTY DAYS FOR A SUBSTANTIVE REVIEW. THE TIME
17 FRAME MAY BE EXTENDED BY MUTUAL AGREEMENT AS PRESCRIBED BY SECTION 41-1075.

18 F. BEFORE THE DIRECTOR ISSUES A PHYSICAL AVAILABILITY EXEMPTION
19 CREDIT, THE DIRECTOR SHALL NOTIFY THE HOLDER OF THE IRRIGATION
20 GRANDFATHERED RIGHT IN WRITING WHETHER THE CRITERION PRESCRIBED IN
21 SUBSECTION D, PARAGRAPH 3, SUBDIVISION (b) OF THIS SECTION WOULD BE
22 SATISFIED BASED ON THE DIRECTOR'S MOST RECENT ASSURED WATER SUPPLY
23 PROJECTION AND REQUEST WRITTEN CONFIRMATION THAT THE HOLDER OF THE
24 IRRIGATION GRANDFATHERED RIGHT WOULD LIKE TO PROCEED WITH THE
25 RELINQUISHMENT. A PERSON MAY NOT RECEIVE A PHYSICAL AVAILABILITY EXEMPTION
26 CREDIT FOR A VOLUME OF WATER THAT EXCEEDS THE PERSON'S IRRIGATION
27 GRANDFATHERED RIGHT.

28 G. ON NOTICE TO THE DIRECTOR BY THE HOLDER OF A PHYSICAL
29 AVAILABILITY EXEMPTION CREDIT, SOME OR ALL OF THE CREDIT MAY BE ASSIGNED TO
30 A MUNICIPAL PROVIDER OR TO A SUBSEQUENT OWNER OF THE LAND ASSOCIATED WITH
31 THE RELINQUISHMENT.

1 H. IF ONLY A PORTION OF A PHYSICAL AVAILABILITY EXEMPTION CREDIT IS
2 APPLIED TO A CERTIFICATE OF ASSURED WATER SUPPLY OR A DESIGNATION OF
3 ASSURED WATER SUPPLY ISSUED PURSUANT TO SECTION 45-576, THE DIRECTOR SHALL
4 IDENTIFY THE VOLUMES AND CORRESPONDING REPLENISHMENT OBLIGATION REMAINING
5 FOR THE PHYSICAL AVAILABILITY EXEMPTION CREDIT.

6 I. AFTER THE ISSUANCE OF A CERTIFICATE OF ASSURED WATER SUPPLY BASED
7 ON A PHYSICAL AVAILABILITY EXEMPTION CREDIT, IF A MUNICIPAL PROVIDER THAT
8 SERVES LAND ASSOCIATED WITH THE RELINQUISHMENT BECOMES A DESIGNATED
9 PROVIDER, THE PHYSICAL AVAILABILITY EXEMPTION CREDIT ASSOCIATED WITH THE
10 CERTIFICATE SHALL BE USED TO SUPPORT THE DESIGNATION.

11 J. SECTION 45-114, SUBSECTIONS A AND B GOVERN ADMINISTRATIVE
12 PROCEEDINGS, REHEARING OR REVIEW AND JUDICIAL REVIEW OF FINAL DECISIONS OF
13 THE DIRECTOR PURSUANT TO THIS SECTION.

14 K. FOR THE PURPOSES OF SEEKING AN EXEMPTION FROM THE PHYSICAL
15 AVAILABILITY REQUIREMENT FOR AN ASSURED WATER SUPPLY AS PRESCRIBED BY
16 SUBSECTION D OF THIS SECTION, THE APPLICABLE DEPTH-TO-STATIC WATER LEVEL
17 FOR EACH ACTIVE MANAGEMENT AREA SHALL BE:

18 1. IN THE PINAL ACTIVE MANAGEMENT AREA, ONE THOUSAND ONE HUNDRED
19 FEET BELOW LAND SURFACE.

20 2. IN ALL OTHER ACTIVE MANAGEMENT AREAS, ONE THOUSAND FEET BELOW
21 LAND SURFACE.

22 L. A PERSON THAT REPLENISHES GROUNDWATER PURSUANT TO SUBSECTION B OF
23 THIS SECTION MAY REPLENISH WITH EFFLUENT. A PERSON THAT RECEIVES A
24 PHYSICAL AVAILABILITY EXEMPTION CREDIT IN THE AREA DELINEATED FOR EXEMPTION
25 UNDER SECTION 45-411.01 IS NOT SUBJECT TO ANY REPLENISHMENT OBLIGATION
26 OTHERWISE IMPOSED BY THIS SECTION.

27 M. FOR THE PURPOSES OF THIS SECTION:

28 1. "MUNICIPAL PROVIDER" HAS THE SAME MEANING PRESCRIBED IN SECTION
29 45-561.

30 2. "WELL" INCLUDES A REPLACEMENT WELL AS PRESCRIBED IN SECTIONS
31 45-597 AND 45-598.

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; definition

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 and
9 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 sale
13 or lease, pursuant to section 32-2181, unless the subdivider has obtained a
14 written commitment of water service for the subdivision from a city, town
15 or private water company designated as having an assured water supply
16 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 the
20 subdivider has obtained a written commitment of water service for the
21 subdivision from a city, town or private water company designated as having
22 an assured water supply pursuant to this section. The city, town or county
23 shall note on the face of the approved plat that a certificate of assured
24 water supply has been submitted with the plat or that the subdivider has
25 obtained a written commitment of water service for the proposed subdivision
26 from a city, town or private water company designated as having an assured
27 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:

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

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

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

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

24 F. The director shall notify the mayors of all cities and towns in
25 active management areas and the chairmen of the boards of supervisors of
26 counties in which active management areas are located of the cities, towns
27 and private water companies designated as having an assured water supply
28 and any modification of that designation within thirty days ~~of~~ AFTER the
29 designation or modification. If the service area of the city, town or
30 private water company has qualified as a member service area pursuant to
31 title 48, chapter 22, article 4, the director shall also notify the
32 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 for
3 water within the service area during the effective term of the designation
4 or modification subject to any limitation in an agreement between the
5 conservation district and the city, town or private water company. For
6 each city, town or private water company that qualified as a member service
7 area under title 48, chapter 22 and **THAT** was designated as having an
8 assured water supply before January 1, 2004, the director shall report to
9 the conservation district on or before January 1, 2005 the projected
10 average annual replenishment obligation based on the projected and
11 committed average annual demand for water within the service area during
12 the effective term of the designation subject to any limitation in an
13 agreement between the conservation district and the city, town or private
14 water company. Persons proposing to offer subdivided lands served by those
15 designated cities, towns and private water companies for sale or lease are
16 exempt from applying for and obtaining a certificate of assured water
17 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 reuse
26 system will be installed that meets the requirements of the rules adopted
27 by the department of environmental quality for gray water systems and if
28 the application is for a certificate of assured water supply, the land for
29 which the certificate is sought must qualify as a member land in a
30 conservation district pursuant to title 48, chapter 22, article 4. For the
31 purposes of this subsection, "gray water" has the same meaning prescribed
32 in section 49-201.

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

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

30 1. The director issued a certificate of assured water supply for the
31 land to a previous owner of the land and the certificate was classified as

1 a type A certificate under rules adopted by the director pursuant to
2 subsection H of this section.

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

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

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

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

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

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

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

1 M. FOR THE PURPOSES OF THIS SECTION, THE DIRECTOR SHALL FIND THAT
2 THE VOLUME OF GROUNDWATER CALCULATED PURSUANT TO SECTION 45-465.05,
3 SUBSECTION B IS EXEMPT FROM THE PHYSICAL AVAILABILITY REQUIREMENT FOR AN
4 ASSURED WATER SUPPLY IF THE VOLUME OF GROUNDWATER CALCULATED PURSUANT TO
5 SECTION 45-465.05, SUBSECTION B MEETS THE REQUIREMENTS PRESCRIBED BY
6 SECTION 45-465.05, SUBSECTION D.

7 ~~M.~~ N. For the purposes of this section, "assured water supply"
8 means all of the following:

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

23 (a) The existing rate of decline.

24 (b) The proposed withdrawals.

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

28 2. The projected groundwater use is consistent with the management
29 plan and achievement of the management goal for the active management area.

30 3. The financial capability has been demonstrated to construct the
31 water facilities necessary to make the supply of water available for the
32 proposed use, including a delivery system and any storage facilities or

1 treatment works. The director may accept evidence of the construction
2 assurances required by section 9-463.01, ~~11-823~~ 11-822 or 32-2181 to
3 satisfy this requirement.

4 Sec. 3. Section 45-576.08, Arizona Revised Statutes, is amended to
5 read:

6 45-576.08. Pinal active management area; assured water supply;
7 physical availability; exemption; definitions

8 A. All of the following apply in the Pinal active management area
9 for an application to modify a designation of assured water supply:

10 1. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, if the total
11 volume of groundwater and stored water to be recovered outside the area of
12 impact of storage sought to be included in the designation does not exceed
13 the total volume of those sources of water included in the previous
14 designation minus the sum of the volume of groundwater actually withdrawn
15 and the volume of stored water recovered outside the area of impact of
16 storage by the applicant since issuance of the previous designation order:

17 (a) The director shall not review the physical availability of the
18 groundwater and stored water to be recovered outside of the area of impact
19 of storage sought to be included in the designation.

20 (b) The physical availability of the groundwater and stored water to
21 be recovered outside the area of impact of storage sought to be included in
22 the designation shall not be grounds for an objection.

23 2. Paragraph 1 of this subsection shall not affect the director's
24 review of assured water supply criteria other than the physical
25 availability of groundwater and stored water to be recovered outside the
26 area of impact of storage.

27 3. Both of the following are deemed physically available for
28 purposes of an assured water supply designation:

29 (a) Stored water that is to be recovered by the applicant within the
30 area of impact of storage pursuant to existing long-term storage credits
31 pledged to the designation of assured water supply.

1 (b) Stored water that is to be recovered by the applicant within the
2 area of impact of storage either on an annual basis pursuant to section
3 45-851.01 or as long-term storage credits to be earned in the future if the
4 water to be stored meets the physical availability requirements for the
5 water supply under rules adopted pursuant to section 45-576, subsection H.

6 B. FOR THE CALCULATION PRESCRIBED BY SUBSECTION A OF THIS SECTION,
7 THE DIRECTOR SHALL EXCLUDE ANY VOLUME OF GROUNDWATER THAT IS SUBJECT TO A
8 PHYSICAL AVAILABILITY EXEMPTION CREDIT AS PRESCRIBED IN SECTION 45-465.05.

9 ~~B.~~ C. For the purposes of this section:

10 1. "Area of impact of storage" means any of the following:

11 (a) Within one mile of an existing or proposed underground storage
12 facility where the water to be recovered is or will be stored.

13 (b) Within the district boundaries of an irrigation district that
14 has a permit for a groundwater savings facility and where the water to be
15 recovered is or will be stored.

16 (c) An area not described in subdivision (a) or (b) of this
17 paragraph that has been shown to have been positively impacted by the
18 storage of the water to be recovered as demonstrated by a hydrologic model
19 approved by the director.

20 2. "Long-term storage credit" has the same meaning prescribed in
21 section 45-802.01.

22 3. "Stored water" has the same meaning prescribed in section
23 45-802.01."

24 Amend title to conform

And, as so amended, it do pass

GAIL GRIFFIN
CHAIRMAN