

COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2204
(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 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, for sale or lease in an active management area shall apply for
10 and obtain a certificate of assured water supply from the director before
11 presenting the plat for approval to the city, town or county in which the
12 land is located, where such is required, and before filing with the state
13 real estate commissioner a notice of intention to offer such lands for
14 sale or lease, pursuant to section 32-2181, unless the subdivider has
15 obtained a written commitment of water service for the subdivision from a
16 city, town or private water company designated as having an assured water
17 supply pursuant to this section.

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

1 proposed subdivision from a city, town or private water company designated
2 as having an assured water supply pursuant to this section.

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

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

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

17 D. The director shall designate private water companies in active
18 management areas that have an assured water supply. If a city or town
19 acquires a private water company that has contracted for central Arizona
20 project water, the city or town shall assume the private water company's
21 contract for central Arizona project water.

22 E. The director shall designate cities and towns in active
23 management areas where an assured water supply exists. If a city or town
24 has entered into a contract for central Arizona project water, the city or
25 town is deemed to continue to have an assured water supply until December
26 31, 1997. Commencing on January 1, 1998, the determination that the city
27 or town has an assured water supply is subject to review by the director
28 and the director may determine that a city or town does not have an
29 assured water supply.

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

1 having an assured water supply before January 1, 2004, the director shall
2 report to the conservation district on or before January 1, 2005 the
3 projected average annual replenishment obligation based on the projected
4 and committed average annual demand for water within the service area
5 during the effective term of the designation subject to any limitation in
6 an agreement between the conservation district and the city, town or
7 private water company. Persons proposing to offer subdivided lands served
8 by those designated cities, towns and private water companies for sale or
9 lease are exempt from applying for and obtaining a certificate of assured
10 water supply.

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

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

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

1 designation of assured water supply lapses or otherwise terminates and all
2 recorded lots within the municipal provider's service area that were not
3 being served by the municipal provider on that date but that received
4 final plat approval from a city, town or county on or before that date.
5 Designation uses do not include industrial uses served by an irrigation
6 district under section 45-497.

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

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

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

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

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

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

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

34 K. Subsection J of this section does not affect the assignment of a
35 certificate of assured water supply 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 DETERMINING WHETHER SUFFICIENT GROUNDWATER,
4 SURFACE WATER OR EFFLUENT OF ADEQUATE QUALITY WILL BE CONTINUOUSLY
5 AVAILABLE TO SATISFY THE WATER NEED OF THE PROPOSED USE, THE DIRECTOR MAY
6 CONSIDER ONLY THE PROPOSED SOURCE OR SOURCES OF THE SUPPLY DEDICATED TO
7 THE PROPOSED USE REGARDLESS OF WHETHER THE WATER IS DISTRIBUTED THROUGH A
8 WATER DELIVERY SYSTEM THAT IS COMMINGLED WITH OTHER SOURCES OF WATER
9 SUPPLY.

10 N. THE DIRECTOR MAY NOT [, DIRECTLY, INDIRECTLY OR BY RULE OR AGENCY
11 PRACTICE.] REQUIRE A SUBDIVIDER THAT APPLIES FOR A CERTIFICATE OF ASSURED
12 WATER SUPPLY OR A COMMITMENT OF WATER SERVICE FROM A WATER PROVIDER
13 DESIGNATED AS HAVING AN ASSURED WATER SUPPLY TO PROCURE OR DEDICATE A
14 SOURCE OF SUPPLY THAT EXCEEDS [ONE HUNDRED PERCENT][THE PROPORTIONATE
15 SHARE] OF THE WATER NEEDED TO MEET THE SUBDIVIDER'S PROPOSED USE.

16 ~~M.~~ O. For the purposes of this section, "assured water supply"
17 means all of the following:

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

32 (a) The existing rate of decline.

33 (b) The proposed withdrawals.

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

37 2. The projected groundwater use is consistent with the management
38 plan and achievement of the management goal for the active management
39 area.

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

1 Sec. 2. Emergency

2 This act is an emergency measure that is necessary to preserve the
3 public peace, health or safety and is operative immediately as provided by
4 law.

5 Enroll and engross to conform

6 Amend title to conform

And, as so amended, it do pass

GAIL GRIFFIN
CHAIRMAN

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