

HOUSE FLOOR AMENDMENT EXPLANATION



Bill Number: **SB 1393**

Griffin Floor Amendment

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- Clarifies that a designation of assured water supply obtained by a city, town or private water company must be obtained pursuant to existing statute relating to multi-county water conservation districts if that city, town or private water company is to provide water service to an owner of subdivided lands in certain conditions.

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GRIFFIN FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1393
(Reference to Senate engrossed 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
27 proposed subdivision from a city, town or private water company designated
28 as having an assured water supply pursuant to this section.

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

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

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

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

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

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

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

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

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

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

1 being served by the municipal provider on that date but that received
2 final plat approval from a city, town or county on or before that date.
3 Designation uses do not include industrial uses served by an irrigation
4 district under section 45-497.

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

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

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

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

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

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

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

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

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

1 M. THE DIRECTOR OR A POLITICAL SUBDIVISION OF THIS STATE MAY NOT
2 REQUIRE OWNERS OF SUBDIVIDED LANDS TO PAY FOR OR PROVIDE A WATER SOURCE TO
3 REDUCE GROUNDWATER DEMANDS INCURRED OFF THE OWNER'S PARCEL AS A CONDITION
4 OF RECEIVING A CERTIFICATE OF ASSURED WATER SUPPLY OR A WRITTEN COMMITMENT
5 OF WATER SERVICE FROM A CITY, TOWN OR PRIVATE WATER COMPANY THAT HAS
6 OBTAINED A DESIGNATION OF ASSURED WATER SUPPLY [THAT WAS ISSUED PURSUANT
7 TO SECTION 48-3771, SUBSECTION F].

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

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

24 (a) The existing rate of decline.

25 (b) The proposed withdrawals.

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

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

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

38 Sec. 2. Section 48-3771, Arizona Revised Statutes, is amended to
39 read:

40 48-3771. District replenishment obligations; replenishment
41 location; source of replenishment; exception

42 A. For each active management area in which member lands or member
43 service areas are or may be located, the district shall replenish
44 groundwater in an amount equal to the groundwater replenishment obligation
45 for that active management area. Except as provided in section 48-3781,

1 subsection G, the district shall complete the replenishment of the
2 groundwater replenishment obligation of that active management area
3 applicable to a particular year within three full calendar years after the
4 year that the district incurs the groundwater replenishment obligation.
5 Replenishment of the groundwater replenishment obligation of an active
6 management area applicable to a particular year is complete when the
7 amount of water added to aquifers through water storage that has been
8 credited directly to the district's conservation district account pursuant
9 to title 45, chapter 3.1, plus long-term storage credits that have been
10 transferred from the district's long-term storage account to its
11 conservation district account pursuant to title 45, chapter 3.1, less the
12 groundwater replenishment obligation of member lands and member service
13 areas located in the active management area and applicable to previous
14 years, less the contract replenishment obligations relative to municipal
15 providers in the active management area for previous years and the year of
16 the calculation, equals or exceeds the groundwater replenishment
17 obligation of the active management area for that year.

18 B. With respect to the portion of the groundwater replenishment
19 obligation attributable to a parcel of member land or a member service
20 area, the district shall replenish groundwater in the active management
21 area where the parcel of member land or the member service area is located
22 in an amount equal to the groundwater replenishment obligation applicable
23 to that parcel of member land or that member service area.

24 C. Except as provided by title 45, chapter 3.1, the district may
25 replenish groundwater with central Arizona project water or water from any
26 other lawfully available source except groundwater withdrawn from within
27 an active management area.

28 D. Notwithstanding any other provision of this chapter, if a parcel
29 of member land is included in the service area of a municipal provider
30 that is not a member service area but that has been designated as having
31 an assured water supply under section 45-576, the parcel of member land
32 has no parcel replenishment obligation and the district has no groundwater
33 replenishment obligation attributable to that parcel of member land for as
34 long as the designation remains in effect.

35 E. Notwithstanding any other provision of this chapter and except
36 as provided in subsection F of this section, if a parcel of member land is
37 included in the service area of a municipal provider that is a member
38 service area and that has been designated as having an assured water
39 supply under section 45-576, the parcel of member land has no further
40 parcel replenishment obligation.

41 F. After September 14, 2024, a municipal provider that submits an
42 application for a new designation of assured water supply pursuant to
43 rules adopted by the department of water resources in the Phoenix AND
44 PINAL active management ~~area~~ AREAS that relies on a member service area
45 agreement may elect for all parcels of member land in the municipal

1 service area to retain a replenishment obligation. For parcels of member
2 land that retain a replenishment obligation, the district shall replenish
3 groundwater in an amount equal to the obligation applicable to that parcel
4 of member land.

5 G. If, pursuant to subsection F of this section, a municipal
6 provider's service area contains member lands and the municipal provider
7 applies to become designated as having an assured water supply, the
8 municipal provider shall notify the district and the director of the
9 department of water resources at the time of application whether it
10 chooses to assume the member lands' replenishment obligation under the
11 municipal provider's designation of assured water supply and member
12 service area agreement. This section does not authorize new member lands
13 to be enrolled within the municipal provider's service area after the
14 service area is designated as having an assured water supply.

15 H. If a municipal provider chooses to allow parcels of member land
16 within its service area to retain the parcel replenishment obligation
17 pursuant to this section, the designation of assured water supply and
18 member service area agreement for the municipal provider shall provide
19 that the parcels of member land retain the parcel replenishment obligation
20 for the lesser of either of the following:

21 1. Ten years from the date of commencement of the first term of the
22 designation.

23 2. The first term of the designation.

24 I. On the lesser of the conditions prescribed by subsection H of
25 this section, the municipal provider shall begin to assume a percentage of
26 the groundwater delivered to parcels of member land and any associated
27 parcel replenishment obligation and provide the information to the
28 district in the annual reports required by section 48-3775. In the first
29 year of reporting pursuant to this subsection, the municipal provider may
30 assume not less than ten percent of the total reported groundwater
31 delivered to each parcel of member land. In each successive year the
32 municipal provider shall assume at least an additional ten percent so that
33 within ten years, all reported groundwater delivered and parcel
34 replenishment obligation are assumed by the municipal provider and the
35 parcels of member land have no further parcel replenishment obligation.

36 J. After a municipal provider assumes all groundwater deliveries
37 from all parcels of member land as prescribed by subsection I of this
38 section, the municipal provider shall cease submitting reports to the
39 district for parcels of member land pursuant to section 48-3775 while the
40 municipal provider's designation of assured water supply remains valid.

41 K. If a municipal provider assumes the parcel replenishment
42 obligation of member lands pursuant to a designation of assured water
43 supply that relies on a member service area agreement, any groundwater
44 allowance or extinguishment credits, as provided in rules adopted by the

1 department of water resources pursuant to section 45-576, associated with
2 the member lands assumed by the municipal provider may be used as follows:

3 1. If the parcel replenishment obligation and reported groundwater
4 delivered to the member lands are entirely assumed on the initial
5 designation of an assured water supply, the remaining extinguishment
6 credits or groundwater allowance associated with the member lands may be
7 used by the municipal provider as authorized pursuant to a member service
8 area agreement.

9 2. If the parcel replenishment obligation and reported groundwater
10 delivered to the member lands are assumed in stages as provided in
11 subsection I of this section, the municipal provider may use the
12 groundwater allowance and extinguishment credits for the member lands in
13 the same manner as authorized in the applicable agreement and notice of
14 municipal reporting requirements if the groundwater is being reported as
15 delivered to member lands. Thereafter, any remaining extinguishment
16 credits or groundwater allowance may be used by the municipal provider as
17 authorized under the member service area agreement.

18 L. FOR A DESIGNATION FOR A MUNICIPAL PROVIDER ISSUED PURSUANT TO
19 SUBSECTION F OF THIS SECTION, OWNERS OF LANDS THAT ARE SUBDIVIDED AFTER
20 THE DATE OF DESIGNATION MAY NOT BE REQUIRED TO PROVIDE OR PAY FOR A WATER
21 SOURCE TO REDUCE A REPLENISHMENT OBLIGATION THE MUNICIPAL PROVIDER INCURS
22 FOR LANDS OTHER THAN THE OWNER'S SUBDIVIDED LAND.

23 Enroll and engross to conform

24 Amend title to conform

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