

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

SENATE BILL 1445

AN ACT

AMENDING SECTIONS 45-543, 45-555, 45-557 AND 45-559, ARIZONA REVISED
STATUTES; RELATING TO THE GROUNDWATER CODE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 45-543, Arizona Revised Statutes, is amended to
3 read:

4 45-543. Transportation between sub-basins or away from an
5 active management area; damages; non-irrigation
6 grandfathered right not associated with retired
7 irrigated land; service area withdrawals; permit;
8 exempt well

9 A. Groundwater may be transported between sub-basins of an active
10 management area or away from an active management area, subject to payment of
11 damages, if the groundwater is withdrawn:

12 1. Pursuant to a type 2 non-irrigation grandfathered right, except
13 that groundwater withdrawn pursuant to a type 2 non-irrigation grandfathered
14 right may not be transported away from the Pinal active management area to
15 another initial active management area for the purpose of demonstrating and
16 providing an assured water supply.

17 2. By a city, town or private water company within its service area
18 and transported within its service area, except that groundwater withdrawn by
19 a city, town or private water company within its service area may not be
20 transported away from the Pinal active management area.

21 3. By an irrigation district within its service area and transported
22 within its service area.

23 4. Pursuant to a groundwater withdrawal permit.

24 5. From an exempt well.

25 B. Groundwater ~~which~~ THAT is withdrawn by a city, town or private
26 water company within its service area may be transported pursuant to a
27 delivery contract authorized by section 45-492, subsection C between
28 sub-basins of an active management area and shall be subject to payment of
29 damages unless the groundwater is withdrawn pursuant to a type 1
30 non-irrigation grandfathered right.

31 C. GROUNDWATER THAT IS WITHDRAWN AND TRANSPORTED TO AN ACTIVE
32 MANAGEMENT AREA PURSUANT TO ARTICLE 8.1 OF THIS CHAPTER MAY BE TRANSPORTED
33 BETWEEN SUB-BASINS OF THE ACTIVE MANAGEMENT AREA WITHOUT PAYMENT OF DAMAGES.

34 Sec. 2. Section 45-555, Arizona Revised Statutes, is amended to read:

35 45-555. Transportation of groundwater withdrawn in Big Chino
36 sub-basin of the Verde River groundwater basin to
37 initial active management area; exception

38 A. A city or town that owns land consisting of historically irrigated
39 acres in the Big Chino sub-basin of the Verde River groundwater basin, as
40 designated by order of the director dated June 21, 1984, or a city or town
41 with the consent of the landowner, may withdraw from the land for
42 transportation to an adjacent initial active management area an amount of
43 groundwater determined pursuant to this section. The amount of groundwater

1 that may be withdrawn from the land pursuant to this section shall not
2 exceed:

3 1. In any year two times the annual transportation allotment for the
4 land determined pursuant to subsection B ~~of this section~~.

5 2. For any period of ten consecutive years computed in continuing
6 progressive series beginning in the year transportation of groundwater from
7 the land begins, ten times the annual transportation allotment for the land.

8 B. The director shall determine the annual transportation allotment as
9 follows:

10 1. Determine each farm or portion of a farm owned or leased by the
11 city or town in the sub-basin.

12 2. For each such farm or portion of a farm, determine the historically
13 irrigated acres retired from irrigation. Multiply the sum of those
14 historically irrigated acres by three acre-feet per acre.

15 C. In making the determination required by subsection B ~~of this~~
16 ~~section~~, the director shall rely only on credible documentary evidence
17 submitted by the city or town or otherwise obtained by the department.

18 D. For THE purposes of ~~this section~~ SUBSECTIONS A, B AND C:

19 1. "Documentary evidence" means correspondence, contracts, other
20 agreements, aerial photography, affidavits, receipts or official records.

21 2. "Farm" means an area of land in the sub-basin that is or was served
22 by a common irrigation water distribution system.

23 3. "Historically irrigated acres" means acres of land overlying an
24 aquifer that were irrigated with groundwater at any time between January 1,
25 1975 and January 1, 1990.

26 E. ~~This article does not apply to the withdrawal and transportation of~~
27 ~~up to fourteen thousand acre feet per year of groundwater by the city of~~
28 ~~Prescott, or the United States in cooperation with the city of Prescott, A~~
29 ~~CITY OR TOWN IN THE PRESCOTT ACTIVE MANAGEMENT AREA MAY WITHDRAW AND~~
30 ~~TRANSPORT EIGHT THOUSAND SIXTY-EIGHT ACRE-FEET PER YEAR OF GROUNDWATER~~ from
31 the Big Chino sub-basin of the Verde River groundwater basin ~~if the~~
32 ~~groundwater is withdrawn and transported either~~ TO THE PRESCOTT ACTIVE
33 MANAGEMENT AREA IF THE CITY OR TOWN DOES BOTH OF THE FOLLOWING:

34 1. ~~In exchange for or replacement or substitution of supplies~~
35 RELINQUISHES A SUPPLY of water from the central Arizona project allocated to
36 ~~Indian tribes, cities, towns or private water companies in the Prescott~~
37 ~~active management area or in the Verde River groundwater basin~~ THE CITY OR
38 TOWN.

39 2. ~~For the purpose of directly or indirectly facilitating the~~ ENTERS
40 INTO A FEDERALLY-APPROVED settlement of the water rights claims of ~~the~~
41 ~~Yavapai-Prescott~~ AN Indian tribe ~~and the Camp Verde Yavapai-Apache Indian~~
42 ~~community~~ IN THE PRESCOTT ACTIVE MANAGEMENT AREA.

43 F. NOTWITHSTANDING THE VOLUME LIMITATION IN SUBSECTION E, IN ANY YEAR
44 IN WHICH A CITY OR TOWN THAT QUALIFIES UNDER SUBSECTION E DELIVERS MORE THAN

1 TWO HUNDRED THIRTY-ONE ACRE-FEET OF WATER TO AN INDIAN TRIBE FOR USE ON ITS
2 RESERVATION IN THE PRESCOTT ACTIVE MANAGEMENT AREA PURSUANT TO A
3 FEDERALLY-APPROVED INDIAN WATER RIGHTS SETTLEMENT, THE CITY OR TOWN MAY
4 WITHDRAW AND TRANSPORT ADDITIONAL GROUNDWATER FROM THE BIG CHINO SUB-BASIN TO
5 THE PRESCOTT ACTIVE MANAGEMENT AREA IN AN AMOUNT EQUAL TO THE AMOUNT BY WHICH
6 THOSE DELIVERIES EXCEED TWO HUNDRED THIRTY-ONE ACRE-FEET.

7 G. GROUNDWATER THAT IS WITHDRAWN AND TRANSPORTED PURSUANT TO
8 SUBSECTIONS E AND F MAY BE DELIVERED TO AND USED BY ANY CITY, TOWN OR INDIAN
9 TRIBE IN THE PRESCOTT ACTIVE MANAGEMENT AREA WITHOUT REGARD TO WHETHER THAT
10 ENTITY WITHDRAWS AND TRANSPORTS THE WATER.

11 Sec. 3. Section 45-557, Arizona Revised Statutes, is amended to read:
12 45-557. Requirements for transporting groundwater to an initial
13 active management area; exception

14 A. Except as provided in ~~subsection~~ SUBSECTIONS B AND C of this
15 section:

16 1. The director shall not consider groundwater that is being or will
17 be withdrawn in a groundwater basin or sub-basin pursuant to this article or
18 the Pinal active management area and transported to an initial active
19 management area for purposes of determining or providing an assured water
20 supply pursuant to section 45-576 if the groundwater is being or will be used
21 by a city, town or private water company that was offered but did not sign a
22 central Arizona project water delivery subcontract.

23 2. A city, town or private water company that has signed a central
24 Arizona project water delivery subcontract may not use groundwater withdrawn
25 in a groundwater basin or sub-basin pursuant to this article or the Pinal
26 active management area and transported to an initial active management area
27 until it has both:

28 (a) Demonstrated that it has the physical capacity, including the
29 water treatment plant and delivery system, to accept delivery of ninety-five
30 per cent of its central Arizona project water entitlement under its central
31 Arizona project water delivery subcontract.

32 (b) Accepted delivery of or exchanged eighty per cent or more of the
33 central Arizona project water available to it under its central Arizona
34 project water delivery subcontract in at least one of the three years
35 immediately preceding the year it intends to begin using groundwater
36 transported away from a groundwater basin or sub-basin pursuant to this
37 article or the Pinal active management area.

38 B. Subsection A of this section does not apply to groundwater
39 withdrawn in the Big Chino sub-basin of the Verde river groundwater basin and
40 transported to an adjoining initial active management area pursuant to
41 section 45-555.

42 C. GROUNDWATER TRANSPORTED TO AN ADJOINING INITIAL ACTIVE MANAGEMENT
43 AREA PURSUANT TO SECTION 45-555, SUBSECTIONS E AND F SHALL BE DEEMED TO BE
44 LEGALLY AVAILABLE UNDER THE RULES ADOPTED PURSUANT TO SECTION 45-576.

1 Sec. 4. Section 45-559, Arizona Revised Statutes, is amended to read:
2 45-559. Well spacing requirements for withdrawing groundwater
3 for transportation to an active management area

4 Except as provided in section 45-554, subsection A **AND EXCEPT FOR**
5 **GROUNDWATER WITHDRAWN AND TRANSPORTED PURSUANT TO SECTION 45-555, SUBSECTIONS**
6 **E AND F**, a person may not use a well constructed after ~~the effective date of~~
7 ~~this section~~ **SEPTEMBER 21, 1991** for **THE** purpose of withdrawing groundwater
8 for transportation to an active management area pursuant to article 8.1 of
9 this chapter unless the person wishing to use the well for that purpose
10 applies to the director for approval and the director approves the
11 application. The director shall approve the application if the director
12 determines that the withdrawals for that purpose will not unreasonably
13 increase damage to surrounding land or other water users from the
14 concentration of wells. In making this determination, the director shall
15 follow the criteria for proposed withdrawals in the rules adopted pursuant to
16 section 45-598, subsection A.