



Weekly Legislative Update

For the week ending Friday, April 5, 2024

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Info

Today is the 89th day of the 56th Legislature 2nd Regular Session

- The deadline for bills to be heard in Conference Committee is Friday, April 12.

Posted Committee Hearings

- **No committee hearings scheduled.**

Bill Summaries

The following bills are being reviewed internally for impacts to the Department and the State's water resources. If the Department has taken a position on a bill it will be noted. (The following list of bills is not a comprehensive list of bills ADWR Legislative Affairs is tracking.)

House of Representatives

HB 2008 - Commercial; industrial; conservation requirements; rules

Sponsor: Rep. Gail Griffin (R)

Summary: By January 1, 2025, for each initial and subsequent Active Management Area, the Department of Water Resources is required to adopt rules for commercial and industrial water users within and outside the service area of a designated service provider that provide for greater water efficiency, conservation, and recycling.

Position: Neutral

Last Action: 03/26/2024 S - Senate Minority Caucus - Y

HB 2016 - Grandfathered right; subsequent AMA; extension

Sponsor: Rep. Gail Griffin (R)

Summary: A person claiming the right to withdraw or receive and use groundwater in the Douglas Active Management Area (AMA) under a grandfathered right is required to file an application for a certificate of

grandfathered right with the Arizona Department of Water Resources no later than 21 months after the date of the designation of the AMA. Emergency clause.

Position: Neutral

Last Action: 03/25/2024 G - Signed

HB 2017 - Assured water supply; commingling

Sponsor: Rep. Gail Griffin (R)

Summary: For the purposes of determining whether a certificate or designation of assured water supply is issued to an applicant, the Director of the Arizona Department of Water Resources shall consider any type of water or sources of water that are being commingled.

Position: Neutral

Last Action: 03/25/2024 S - Hearing Scheduled - 03/26/2024 - Committee of the Whole, Floor

HB 2019 - Groundwater model; public inspection; challenge

Sponsor: Rep. Gail Griffin (R)

Summary: The Arizona Department of Water Resources shall make available at no cost for public inspection any hydraulic modeling that the department uses to determine projected groundwater levels for the purposes of evaluating an application for a certificate or designation of assured water supply, including the hydraulic model's findings, conclusions, methods and assumptions. The Director of the Arizona Department of Water Resources shall establish a process for a party to challenge any hydraulic model that the department makes available for public inspection.

Position: Neutral

Last Action: 04/02/2024 G - Vetoed

HB 2020 - Long-term storage; stormwater; rainwater; rules

Sponsor: Rep. Gail Griffin (R)

Summary: A person that develops or plans to develop infrastructure in an active management area that results in increased natural, incidental or artificial recharge to the groundwater basin is entitled to earn and hold long-term storage credits in an amount not to exceed the level of increased recharge or projected increased recharge of a groundwater basin. On or before January 1, 2025, the director shall adopt rules that promote new construction of facilities that are eligible to earn long-term storage credits. Contains criteria and rules for long-term storage credit eligibility. A person that applies for long-term storage credits under this law is exempt from certain permitting requirements.

Position: Neutral

Last Action: 03/26/2024 S - Senate Minority Caucus - Y

HB 2027 - Subsequent AMAs; assured water supply

Sponsor: Rep. Gail Griffin (R)

Summary: Proposed subdivisions within a subsequent active management area located in a municipality or county that adopts an adequate water supply ordinance are not subject to the local adequate water supply

ordinance. Any subdivision within an subsequent active water management area that is designated as having an adequate water supply by the Director of the Arizona Department of Water Resources is deemed to have an assured water supply as of the effective date of the subsequent active management area.

Position: Neutral

Last Action: 04/02/2024 G - Vetoed

HB 2055 - Underground water storage; permitting

Sponsor: Rep. Timothy M. Dunn (R)

Summary: Increases the number of days that the Arizona Department of Water Resources has to review applications for water storage at an underground storage facility to 180 days. Requires ADWR to issue a decision on the application within 100 days after notice of the application is given.

Position: Support

Last Action: 04/02/2024 G - Signed

HB 2060 - Irrigation non-expansion area; substitution; acres

Sponsor: Rep. Gail Griffin (R)

Summary: Allows an owner of acreage in an irrigation non-expansion area to permanently retire acreage that may legally be irrigated and substitute that acreage's associated water for any end use, provided the owner demonstrates that the use of that water does not result in a net increase of groundwater withdrawal in the non-expansion area. The Director of the Arizona Department of Water Resources may not require a net groundwater usage reduction as a requirement of approval of an application to make the substitution of acreage.

Position: Neutral

Last Action: 03/19/2024 S - Senate Minority Caucus - Y

HB 2062 - Assured water supply; certificate; model

Sponsor: Rep. Gail Griffin (R)

Summary: Requires the Department of Water Resources to review assured water supply applications and issue a written determination of action within 15 days of receipt of an application for an assured water supply upon request of the applicant, if the application is for the Phoenix active management area, was submitted between January 26, 2021 and May 31, 2023, and the applicant has not received a certificate of assured water supply or had an application denied. Requires the Department of Water Usage to use the 2006-2009 Salt River valley regional model and financial information submitted by the applicant, and notify all eligible applicants of the ability to have determinations of assured water supply reviewed within five days of the bill being enacted. Imposes a 90-day window from enactment of the bill for applicants to request a review and stipulates that the section is repealed effective January 1, 2025.

Position: Neutral

Last Action: 03/26/2024 S - Senate Minority Caucus - Y

HB 2063 - Exempt wells; certificate; groundwater use

Sponsor: Rep. Gail Griffin (R)

Summary: Limits an exempt well registered with the Department of Water Resources to withdraw no more than 35 gallons per minute and requires the Director of the department to issue each groundwater user that registers an exempt well a certificate of water rights. Stipulates that a groundwater user may not appropriate sub flow or surface water and that withdrawn water is not exempt from a general stream adjudication.

Position: Neutral

Last Action: 04/03/2024 S - DPA - Senate Committee of the Whole

HB 2123 - Wells; water measuring devices; prohibition

Sponsor: Rep. Austin Smith (R)

Summary: Prohibits the state or a political subdivision from requiring a water measuring device for any well located in a basin or subbasin that contains a river system or source that is subject to general adjudication of water rights and the basin or subbasin is located outside of an Initial Active Management Area or outside an area where groundwater may be withdrawn and transferred pursuant to Arizona law.

Position: Neutral

Last Action: 04/02/2024 G - Vetoed

HB 2124 - Agricultural operations; water; protection; definition

Sponsor: Rep. Austin Smith (R)

Summary: Adds water use by an owner, lessee, agent, independent contractor, and supplier on any facility used for the production of crops, livestock, poultry, livestock and poultry products for the purposes of agritourism to the definition of "Agricultural Operations" (defined.) Allows a court to award reasonable costs and legal fees in a lawsuit deemed to be a nuisance action if the action was filed to take or reduce the water use by the other party.

Position: Neutral

Last Action: 04/03/2024 S - DPA - Senate Committee of the Whole

HB 2127 - Assured water supply certificate; effluent

Sponsor: Rep. Gail Griffin (R)

Summary: Permits an applicant for a Certificate of Assured Water Supply for a proposed subdivision in the Tucson, Phoenix, Prescott or Santa Cruz Active Management Area to use effluent projected to be produced by the subdivision provided the application indicates the proposed subdivision will use all effluent produced by the subdivision, the applicant may use it to demonstrate physical availability and consistency with the management plan and the Director shall deem that there is sufficient groundwater to be consistent with the Active Management Area's management plan, and if the applicant enrolls as a member land pursuant to ARS 48-3774 and all projected effluent produced by the subdivision will be recharged in the same subbasin where the subdivision is located, the Director shall grant a Certificate of Assured Water Supply.

Position: Neutral

Last Action: 03/26/2024 S - Senate Minority Caucus - Y

HB 2184 - Brackish groundwater pilot program

Sponsor: Rep. Austin Smith (R)

Summary: Stipulates that brackish groundwater desalination demonstration program funds, matching funds and associated activities apply to the entire state. Directs the pilot program's location be determined by the Department of Water Resources. Directs that the central Arizona project receive matching funds contingent to the amount it contributes to Brackish Groundwater Desalination projects within Active Management Areas.

Position: Neutral

Last Action: 04/02/2024 G - Vetoed

HB 2186 - Remedial groundwater incentive; brackish groundwater

Sponsor: Rep. Alexander Kolodin (R)

Summary: Establishes that the use of remedial groundwater by someone with or applying for a certificate of designation of assured water supply is in compliance with the goals of an Active Management Area if the Department of Water Resources (DWR) determines the use is consistent with the management goals of remedial groundwater metering and reporting as defined in this bill. Establishes that use of remedial groundwater in this case without the approval of the DWR if the remedial groundwater associated with the withdraw or use is considered a "Hazardous Substance" (defined,) the total amount of remedial groundwater to be withdrawn does not exceed the amount of remedial groundwater in the relevant area that is considered a Hazardous Substance, all required information prescribed in this bill is present and the individual complies with metering and reporting requirements established in this bill. Implements remedial groundwater applications and rules pertaining to permissions, use, applications processes, determinations, reporting and timelines for review of applications as well as developing the formula used to calculate, increase or decrease the annual authorized volume of remedial groundwater that can be withdrawn. Requires a person in compliance with the remedial groundwater applications and rules established by this bill to meter remedial groundwater withdrawals separately from groundwater withdrawn under another groundwater withdrawal authority. A person deemed to be in compliance with this bill shall include withdrawal amounts in its annual report. Requires an individual deemed to be withdrawing remedial groundwater that meets the definition of a Hazardous Substance shall provide the DWR no less than 120 days before commencement of the withdrawal the annual volume to be withdrawn, total amount of remedial groundwater that meets the Hazardous Substance criteria, the time period for withdrawal, commencement date of withdrawal, a statement of purpose, evidence of compliance with US Environmental Protection Agency or Department of Environmental Quality approval for the withdrawal, the person to whom the certificate or designation of assured water supply to which the remedial groundwater will be pledged and all pertinent contact information so that the Department of Water Resources can contact that person.

Position: Neutral

Last Action: 04/03/2024 S - DPA - Senate Committee of the Whole

HB 2201 - Harquahala non-expansion area; groundwater transportation

Sponsor: Rep. Timothy M. Dunn (R)

Summary: Permits the transportation of groundwater withdrawn in Harquahala Irrigation Non-Expansion Area to an Initial Active Management Area if the groundwater is used by customers of an eligible entity within five years after the transport and is not sold or conveyed for use by other than the eligible entity and by a public service corporation if the cost of the withdrawal and transport are covered by the customers of

the corporation where the groundwater is used. Enables the State, subdivision of the State and public service corporation regulated by a corporation commission that possesses a Certificate of Conveyance and Necessity for water service in the Initial Active Management Area. Directs the Department of Water Resources (DWP) to adopt rules to govern withdrawal and transportation and reporting procedures for groundwater withdrawal. Enables Initial Active Management Area entities, the Arizona Water Baking Authority, or any location in La Paz County to withdraw and transport water from the Harquahala Irrigation Non-Expansion Area. Exempts the DWP from rulemaking requirements for one year after the effective date.

Position: Neutral

Last Action: 04/02/2024 S - DPA - Senate Committee of the Whole

HB 2368 - Transportation; groundwater; Douglas AMA

Sponsor: Rep. Gail Griffin (R)

Summary: Permits a private water company to annually withdrawal groundwater from the Upper San Pedro Groundwater Basin for transportation to the Douglas Active Management Area if the groundwater is transported for municipal purposes, the private water company or the private water compan's predecessor withdrew groundwater for a municipal purposes up to September 30, 1992, and the private water company as of the effective date of this bill has a Certificate of Convenience and Necessity issued by the Arizona Corporate Commission to provide water service for a municipal purposes within the Douglas Active Management Area. Requires that the total amount of groundwater a private water company can transport from the upper San Pedro Groundwater Basin to the Douglas Active Management Area may not exceed the annual amount of ground order that the private water company transported before December 1, 2022.

Position: Neutral

Last Action: 03/26/2024 S - Senate Minority Caucus - Y

HB 2589 - Assured water supply; analysis; availability

Sponsor: Rep. Timothy M. Dunn (R)

Summary: For the purposes of issuing a certificate of assured water supply, the Director shall accept an analysis as a valid demonstration of physical availability for the volume of groundwater stated in the analysis, after reducing the volume of groundwater by the amount of groundwater represented by all certificates issued in reliance on the analysis, if all of the following apply: the analysis was issued on or before May 31, 2023, the analysis has not expired, and the analysis includes a determination of physical availability of groundwater.

Position: Neutral

Last Action: 04/02/2024 S - Senate Minority Caucus - Y

HB 2647 - Physical availability credits; water supply.

Sponsor: Rep. Austin Smith (R)

Summary: A person who owns land that may be legally irrigated with groundwater pursuant to an irrigation grandfathered right and that is located within an AMA may permanently retire the land from irrigation in anticipation of a future non-irrigation use and retain a physical availability credit. The physical availability credit may be used to withdraw from or receive for the subject to irrigation.

Position: Neutral

Last Action: 04/02/2024 S - Senate Minority Caucus - Y

Senate

SB 1041 - Groundwater savings certificate; assured water

Sponsor: Sen. Jake Hoffman (R)

Summary: Requires a Groundwater Savings Certificate (defined,) issued by the Arizona Department of Water Resources (ADWR) for anyone proposing to offer subdivided lands for sale or lease before presenting the subdivision plan for approval. Requires the certificate be obtained before any filings with the State Real Estate Commissioner of a notice to offer the subdivision for sale or lease. Requires a city, town or county to only prove a subdivision if the Groundwater Savings Certificate is present, or the applicant has secured a written commitment for water service for the subdivision from a city, town or private water company designated as having an assured water supply. Requires the ADWR to designate private water companies in Active Management Areas that have an assured water supply or a Groundwater Savings Certificate. Requires rules to be drafted for an application for a Groundwater Savings Certificate if a gray water system will be installed and meets all gray water environmental requirements.

Position: Neutral

Last Action: 04/03/2024 H - RET ON CAL - House Committee of the Whole

SB 1081 - Exemption area; assured water supply

Sponsor: Sen. Sine Kerr (R)

Summary: Requires the Arizona Department of Water Resources (ADWR), if requested to designate a portion of a city or town that is located both in the area delineated for exemption and in the Phoenix Active Management Area (AMA) as having an assured water supply if the portion of the city or town seeking the water supply designation is located entirely within an irrigation and water conservation district; and if the city or town has contracted with the irrigation and water conservation district for a term of 100 years or more, under which the city or town will receive water that the landowners in the district have the right to use on their lands and will treat and deliver the water for exclusive use on irrigation and conservation district lands for municipal use; and if the city or town is not using new groundwater as the basis for the assured water supply within any portion of the its service area located inside the irrigation and water conservation district. An irrigation and conservation district is allowed to permit the city or town to withdraw up to 10,000 acre feet per year of groundwater from the irrigation and water conservation district wells for municipal use on lands within the boundaries of an irrigation and water conservation district. The ADWR may deem groundwater withdrawn to be physically available and sufficient groundwater, and consistent with the management goals of the Phoenix AMA if the average groundwater level in the irrigation and water conservation district, as measured by 10 index wells, is less than 150 feet below surface level over a three year period. If the ADWR determines average groundwater levels in the irrigation and water conservation district, as measured by 10 index wells, is more than 150 feet below surface level over a three year period, all future groundwater withdrawals from wells in the irrigation and water conservation district for municipal use shall be deemed to be groundwater subject to replenishment and any portion of the city or town with a contract for groundwater with an irrigation and water conservation district shall either be or apply for and become a member service area.

Position: Neutral

Last Action: 03/12/2024 H - House Minority Caucus - Y

SB 1172 - Physical availability credits; water supply

Sponsor: Sen. Thomas "T.J." Shope (R)

Summary: Permits a person with a grandfathered right to legally irrigate land in an Active Management Area to permanently retire the land from irrigation in anticipation of a future non-irrigation status and retain a physical availability credit. Permits a physical availability credit to be used to withdraw or receive for land subject to irrigation the amount of water calculated for a non-irrigation use if the land has been actively farmed in the last seven calendar years, the new non-irrigation use remains connected to the original irrigation acres defined in the grandfathered right, and the water is delivered by a "municipal provider" (defined) within in Active Management Area as part of a contract to maintain water delivery levels under the grandfathered agreement. Defines the calculation that must be used to determine the amount of groundwater that may be withdrawn or received. Requires the physical availability credit to be used in the original irrigation acreage and if the amount needed is less than the credit, the credit may be used elsewhere as defined by law. Defines the process of determining whether to issue a Certificate of Assured Water Supply to designate or redesignate a municipal provider as having an assured water supply, and the criteria the Arizona Department of Water Resources (ADWR) may use to make such a determination. Delineates the parts of the ARS that govern administrative proceedings, re-hearings, reviews and judicial reviews of final decisions per the ADWR. Removes the date deadline for the rules providing for a reduction in water demand for an application fore a designation of assured water supply or a certificate for the same. Requires the ADWR to find that for an assured water supply designation, the amount of groundwater calculated is physically present and that the projected use of groundwater determined to be available is consistent with any applicable management goals set forth in the ADWR rules or state law.

Position: Neutral

Last Action: 03/26/2024 H - House Minority Caucus - Y

SB 1181 - Groundwater replenishment; member lands; areas

Sponsor: Sen. Warren Petersen (R)

Summary: Gives a municipal provider the option of allowing a parcel of member land to remain as such and retain its replenishment obligation, and, if it assumes the member land obligation within its designation, that parcel of member land has no replenishment obligation for parcel of member land included in the service area of a municipal provider that is not a member service area but has been designated as having an assured water supply, and, if the parcel of land member is included in the service area of a municipal provider that is a member service area and has been designated as having an assured water supply. Requires a municipal provider, in the case where its service area contains member lands and it is applying to become designated as having an assured water supply, to notify the district before the final decision and order of designation, whether it chooses to allow member lands to remain as member lands or to assume the member land's replenishment obligation under the municipal provider's designation or member service area. Stipulates that after the order of designation is issued, no new member lands may be enrolled within the municipal provider service area in the case of a designation of assured water supply the member land shall remain member land for 10 years after the date of designation if a municipal provider opts to allow the member land to remain member land under its service area. Permits the Arizona Department of Water Resources (ADWR) to require a schedule of reduction of parcels of member land, commencing after 10 years. Stipulates that this legislation applies to designations of assured water supply issued after the legislation's effective date.

Position: Neutral

Last Action: 03/19/2024 H - House Minority Caucus - Y

SB 1221 - Basin management areas; appropriation

Sponsor: Sen. Sine Kerr (R)

Summary: Appropriates \$40,000,000 from monies allocated to Arizona from the American Rescue Plan Act of 2021 in FY2024-25 to the Arizona Department of Water Resources (ADWR) to fund water conservation measures in a basin management area established pursuant to statute (Basin Area). Requires ADWR to use monies appropriated in the statewide water resources planning line item only to fund water conservation measures in a Basin Area. Allows a water user in a Basin Area to apply for a grant of up to 50% of the costs of the water user's water conservation measure. Requires ADWR to award monies equitably to all classes of water users in the Basin Area. Exempt from lapsing. Allows the designation of a Basin Area in any location that is not included in an active management area and subject to the jurisdiction of this state to be initiated by petition signed by at least 15% of the registered voters who receive their drinking water from the groundwater basin or subbasin. Lists rules of voter eligibility for the petition and the form of the petition. Requires ADWR to verify that the petition meets listed conditions and to conduct a cost benefit analysis. Requires ADWR, if it determines that the probable benefits outweigh the probable costs, to transmit the petition to the county board of supervisors (Board) in each relevant county, who must hold a public meeting to approve or deny the petition. Requires an affirmative vote of all members of each Board to approve the petition. Requires ADWR, upon approval of the petition by each Board, to hold a series of public meetings as specified. Requires ADWR, within 15 months after a basin area is established, to grant to each water user who applies for a certificate of groundwater rights a certificate that entitles the user to use the annual allocated amount of water as specified. Lists requirements for ADWR in relation to Basin Areas and certificates of groundwater rights. Prohibits ADWR from requiring a groundwater user to meter any wells located in the Basin Area or to report usage beyond statutory requirements. Lists requirement for annual reporting of usage and specifies the information is not public record. Provides for a certificate of water conservation. Lists rights of a holder of a certificate of groundwater rights and the responsibilities of ADWR. Prohibits the designation of a Basin Area as an active management area or irrigation non-expansion area. Allows the designation of an Active Basin Management Area (Active Area) and the creation of an Active Basin Management Council (Council) in any location that is designated a basin management area by a unanimous vote of all relevant boards and provides rules, procedures, responsibilities and goals. Prohibits the designation of an active area may from infringing on a water user's certificated water rights with listed exceptions. Requires annual review by ADWR and lists required information.

Position: Neutral

Last Action: 03/26/2024 H - House Minority Caucus - Y

SB 1243 - Groundwater sales; online exchange

Sponsor: Sen. Justine Wadsack (R)

Summary: Allows someone with a grandfathered right to groundwater in the Phoenix, Tucson or Pinal Active Management Area to sell, lease or otherwise convey any portion of that right to pump groundwater or the groundwater itself to any other person in the areas mentioned. Prohibits the right to pump groundwater from one subbasin to transport and use in another subbasin. Establishes permissible uses of grandfathered water rights in the same subbasin as well as information required to be submitted to the Department of Water Resources (DWS) when a transfer of rights is occurring. Permits the DWS to create a form for

appropriate notice requirements and the purchaser to access 65% of the total amount of groundwater given by the grandfathered party. Authorizes and direct the DWS to create, maintain and host on its website a water exchange for groundwater and groundwater rights to be transferred, sold, leased or otherwise conveyed to another party. The online water exchange shall be publicly accessible and shall include for each transaction the information submitted in the notices prescribed by Section 45-641.

Position: Neutral

Last Action: 04/04/2024 H - DPA - House Additional Committee of the Whole

SB 1289 - DWR; hydrology reports

Sponsor: Sen. Jake Hoffman (R)

Summary: Requires that 30 days before issuing a report on the hydrologic conditions of an Active Management Area, or a related report, the Governor and the Arizona Department of Water Resources are to submit a copy of the report to the members of the Natural Resources, Energy and Water Committees of the legislature, or their successor committees.

Position: Neutral

Last Action: 04/03/2024 S - Transmit to Senate