

State of Arizona  
Senate  
Forty-fifth Legislature  
Second Regular Session  
2002

CHAPTER 133

## SENATE BILL 1363

AN ACT

AMENDING SECTIONS 45-113, 45-571.02 AND 45-575, ARIZONA REVISED STATUTES; AMENDING SECTION 45-596, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 85, SECTION 2; AMENDING SECTION 45-596, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1994, CHAPTER 291, SECTION 27 AND CHAPTER 300, SECTION 2; AMENDING SECTIONS 45-599, 45-600, 45-612, 45-615, 45-811.01, 45-834.01, 45-893.01, 45-895.01 AND 48-2981, ARIZONA REVISED STATUTES; RELATING TO WATERS; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)



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

2 Section 1. Section 45-113, Arizona Revised Statutes, is amended to  
3 read:

4 45-113. Fees; refunds

5 A. Except as otherwise prescribed, the director shall establish by  
6 rule and shall collect reasonable fees to cover the costs of administrative  
7 services and expenses.

8 B. Except as otherwise prescribed, the director may establish by rule  
9 and collect fees for applications, certificates, licenses and permits  
10 relating to surface water, groundwater, water exchanges, wells, grandfathered  
11 rights, substitution of acres, adequate and assured water supply, groundwater  
12 oversupply and lakes and for inspections relating to dam safety.

13 ~~C. A permanent administrative fund is established in an amount of not  
14 more than ten thousand dollars for the purpose of making refunds on any fees  
15 erroneously paid to the department. Except as provided in subsection E of  
16 this section, at any time the administrative fund contains a balance of less  
17 than ten thousand dollars, the director may deposit in this fund monies  
18 collected by the director from any fees which may be subject to a claim for  
19 a refund. The monies in the administrative fund are exempt from lapsing  
20 under section 35-190.~~

21 ~~D. C. If the director determines that a fee, including a fee  
22 collected pursuant to section 45-611, has been erroneously paid during the  
23 same fiscal year or during any prior fiscal year, the director shall make an  
24 administrative adjustment or a refund, without interest, from the  
25 administrative AGENCY fund IN WHICH THE FEE WAS ORIGINALLY DEPOSITED to the  
26 current holder of the right, application or registration for which the fee  
27 was paid.~~

28 ~~E. D. This section does not apply to fees paid or payable under  
29 section 45-254 or section 45-255, subsection B.~~

30 Sec. 2. Section 45-571.02, Arizona Revised Statutes, is amended to  
31 read:

32 45-571.02. Municipal conservation requirements; compliance

33 A. A municipal provider that has been given notice, in the manner  
34 prescribed in section 45-565, subsection B, of a municipal conservation  
35 requirement that is substantially identical to an industrial conservation  
36 requirement is not required to comply with that municipal conservation  
37 requirement respecting an individual user that ~~has been either~~ TO WHICH ONE  
38 OF THE FOLLOWING APPLIES:

39 1. THE INDIVIDUAL USER WAS given written notice of the municipal  
40 conservation requirement by the director in the manner prescribed in section  
41 45-565, subsection B or section 45-571.01, subsection B.

42 2. THE INDIVIDUAL USER WAS reported by ~~a~~ THE municipal provider, on  
43 a form provided by the department and received by the director AT LEAST  
44 NINETY DAYS BEFORE THE ADOPTION OF THE APPLICABLE MANAGEMENT PLAN, as being  
45 an individual user to which the municipal conservation requirement applies.

1           3. THE INDIVIDUAL USER WAS GIVEN WRITTEN NOTICE OF THE MUNICIPAL  
2 CONSERVATION REQUIREMENT BY THE DIRECTOR IN THE MANNER PRESCRIBED IN  
3 SUBSECTION B OF THIS SECTION, EXCEPT THAT THE MUNICIPAL PROVIDER SHALL COMPLY  
4 WITH THE MUNICIPAL CONSERVATION REQUIREMENT UNTIL THE FIRST DATE ON WHICH THE  
5 INDIVIDUAL USER IS REQUIRED TO COMPLY WITH THE REQUIREMENT.

6           B. IF THE INDIVIDUAL USER WAS NOT REPORTED BY THE MUNICIPAL PROVIDER  
7 AS AN INDIVIDUAL USER TO WHICH THE MUNICIPAL CONSERVATION REQUIREMENT APPLIES  
8 ON A FORM PROVIDED BY THE DEPARTMENT AND RECEIVED BY THE DIRECTOR AT LEAST  
9 NINETY DAYS BEFORE THE ADOPTION OF THE MANAGEMENT PLAN, THE DIRECTOR MAY GIVE  
10 WRITTEN NOTICE OF A MUNICIPAL CONSERVATION REQUIREMENT THAT IS SUBSTANTIALLY  
11 IDENTICAL TO AN INDUSTRIAL CONSERVATION REQUIREMENT TO THAT INDIVIDUAL USER  
12 MORE THAN THIRTY DAYS AFTER THE ADOPTION OF THE MANAGEMENT PLAN IN WHICH THE  
13 REQUIREMENT IS ESTABLISHED. AN INDIVIDUAL USER THAT IS GIVEN WRITTEN NOTICE  
14 PURSUANT TO THIS SUBSECTION SHALL COMPLY WITH THE CONSERVATION REQUIREMENT  
15 NOT LATER THAN JANUARY 1 OF THE CALENDAR YEAR FOLLOWING THE FIRST FULL YEAR  
16 AFTER THE DATE OF THE NOTICE.

17           Sec. 3. Section 45-575, Arizona Revised Statutes, is amended to read:

18           45-575. Administrative review of irrigation water duty and  
19                                   conservation requirements

20           A. Any aggrieved party may request an administrative review of an  
21 irrigation water duty or conservation requirement established pursuant to  
22 section 45-565, 45-566, 45-567 or 45-568. Except as provided in subsection  
23 B of this section, the request must be made not later than ninety days from  
24 the date of notice of such duty or requirement given thirty days after the  
25 adoption of the management plan OR IF THE NOTICE WAS GIVEN PURSUANT TO  
26 SECTION 45-571.02, SUBSECTION B, NOT LATER THAN NINETY DAYS FROM THE DATE OF  
27 THE NOTICE.

28           B. An aggrieved person who claims that extraordinary circumstances not  
29 in existence as of the date of notice that was given thirty days after  
30 adoption of the management plan justify modification of an irrigation water  
31 duty or conservation requirement established pursuant to section 45-565,  
32 45-566, 45-567 or 45-568 may request administrative review of the water duty  
33 or conservation requirement more than ninety days from the date of notice of  
34 the water duty or conservation requirement. The director may modify the  
35 water duty or conservation requirement if the aggrieved person demonstrates  
36 to the director by clear and convincing evidence that extraordinary  
37 circumstances not in existence as of the date of the notice that was given  
38 thirty days after adoption of the management plan make it unreasonable to  
39 require compliance with a water duty or conservation requirement.

40           C. An aggrieved municipal provider that is subject to a non-per capita  
41 conservation program established pursuant to section 45-565.01, 45-566.01,  
42 45-567.01 or 45-568.01 may request an administrative review of a conservation  
43 requirement, other than a conservation requirement for individual users, only  
44 if the municipal provider claims at any time that significant circumstances  
45 that did not exist when the municipal provider's application for the non-per

1 capita conservation program was approved by the director justify modification  
2 of the conservation requirement. The director may modify the conservation  
3 requirement if the aggrieved municipal provider demonstrates to the director  
4 by clear and convincing evidence that significant circumstances that did not  
5 exist when the application was approved by the director make it unreasonable  
6 to require compliance with the conservation requirement. Significant  
7 circumstances include the aggrieved municipal provider's agreement to  
8 substitute new conservation programs for the conservation programs that the  
9 municipal provider is currently required to implement under the non-per  
10 capita conservation program if the new conservation programs are expected to  
11 result in an equivalent or greater water use efficiency within the municipal  
12 provider's service area as the conservation programs that the municipal  
13 provider is currently required to implement.

14 D. The director shall give written notice to the aggrieved party who  
15 is requesting an administrative review of the opportunity for an  
16 administrative hearing. An administrative hearing shall be held before the  
17 director's decision on the application if the director deems a hearing  
18 necessary or a hearing is requested by the applicant.

19 E. A party aggrieved by the director's decision may seek judicial  
20 review of the final decision of the director as provided in section 45-114,  
21 subsection B in the superior court in the county in which the irrigated land  
22 or the non-irrigation use is located.

23 F. Section 45-114, subsections A and B govern administrative  
24 proceedings, rehearing or review and judicial review of final decisions of  
25 the director under this section. If an administrative hearing is held, it  
26 shall be conducted in the active management area in which the use is located.

27 Sec. 4. Section 45-596, Arizona Revised Statutes, as amended by Laws  
28 2000, chapter 85, section 2, is amended to read:

29 45-596. Notice of intention to drill

30 A. In an area not subject to active management, a person may not drill  
31 or cause to be drilled any well or deepen an existing well without first  
32 filing notice of intention to drill pursuant to subsection C of this section  
33 or obtaining a permit pursuant to section 45-834.01.

34 B. In an active management area, a person may not drill or cause to  
35 be drilled an exempt well, a replacement well in approximately the same  
36 location or any other well for which a permit is not required under this  
37 article, article 7 of this chapter or section 45-834.01 or deepen an existing  
38 well without first filing a notice of intention to drill pursuant to  
39 subsection C of this section.

40 C. A notice of intention to drill shall be filed with the director on  
41 a form which is prescribed and furnished by the director and which shall  
42 include:

- 43 1. The name and mailing address of the person filing the notice.  
44 2. The legal description of the land upon which the well is proposed  
45 to be drilled and the name and mailing address of the owner of the land.

- 1           3. The legal description of the location of the well on the land.
- 2           4. The depth, diameter and type of casing of the proposed well.
- 3           5. Such legal description of the land upon which the groundwater is
- 4 proposed to be used as may be required by the director to administer this
- 5 chapter.
- 6           6. When construction is to begin.
- 7           7. The proposed uses to which the groundwater will be applied.
- 8           8. The name and well driller's license number of the well driller who
- 9 is to construct the well.
- 10          9. The design pumping capacity of the well.
- 11          10. If for a replacement well, the maximum capacity of the original
- 12 well and the distance of the replacement well from the original well.
- 13          11. Proof that the director determines to be satisfactory that the
- 14 person proposing to construct the well holds a valid license issued by the
- 15 registrar of contractors pursuant to title 32, chapter 10 and that the
- 16 license is of the type necessary to construct the well described in the
- 17 notice of intention to drill. If the proposed well driller does not hold a
- 18 valid license, the director may accept proof that the proposed well driller
- 19 is exempt from licensing as prescribed by section 32-1121.
- 20          12. If any water from the proposed well will be used for domestic
- 21 purposes as defined in section 45-454, evidence of compliance with the
- 22 requirements of subsection F of this section.
- 23          13. If for a second exempt well at the same location for the same use
- 24 pursuant to section 45-454, subsection E, proof that the requirements of that
- 25 subsection are met.
- 26          14. Such other information as the director may require.
- 27          D. ~~Notice of intention to drill shall be filed with the director in~~
- 28 ~~duplicate. Upon receiving the A notice OF INTENTION TO DRILL, the director~~
- 29 ~~shall endorse on the notice the date of its receipt. The director shall~~
- 30 ~~determine whether all information that is required has been submitted and~~
- 31 ~~whether the requirements of subsection C, paragraphs 11 and 12 of this~~
- 32 ~~section have been met. If so, within fifteen days of receipt of the notice,~~
- 33 ~~the director shall record the notice, and mail the duplicate copy of the~~
- 34 ~~notice A DRILLING CARD THAT AUTHORIZES THE DRILLING OF THE WELL TO THE WELL~~
- 35 ~~DRILLER IDENTIFIED IN THE NOTICE AND MAIL WRITTEN NOTICE OF THE ISSUANCE OF~~
- 36 ~~THE DRILLING CARD to the person giving FILING the notice OF INTENTION TO~~
- 37 ~~DRILL at the address stated in the notice. Upon receipt of a copy of the~~
- 38 ~~notice showing the record of receipt by the director, this section is deemed~~
- 39 ~~to have been fully complied with in respect to the drilling or deepening of~~
- 40 ~~the well; described in the notice, and the person giving the notice THE~~
- 41 ~~DRILLING CARD, THE WELL DRILLER may proceed to drill or deepen the well as~~
- 42 ~~described in the notice OF INTENTION TO DRILL. If the director determines~~
- 43 ~~that the required information has not been submitted or that the requirements~~
- 44 ~~of subsection C, paragraphs 11 and 12 of this section have not been met, the~~
- 45 ~~director shall mail a statement of the determination to the person giving the~~

1 notice to the address stated in the notice, and the person giving the notice  
2 may not proceed to drill or deepen the well.

3 E. The well shall be completed within one year after the date of the  
4 notice. If the well is not completed within one year, the person shall file  
5 a new notice before proceeding with further construction.

6 F. If any water from a proposed well will be used for domestic  
7 purposes as defined in section 45-454 on a parcel of land of twenty FIVE or  
8 fewer acres, the applicant shall submit a well site plan of the property with  
9 the notice of intention to drill. The site plan shall:

10 1. Include the county assessor's parcel identification number.

11 2. Show the proposed well location and the location of any septic tank  
12 or sewer system that is either located on the property or within one hundred  
13 feet of the proposed well site.

14 3. Show written approval by the county health authority that controls  
15 the installation of septic tanks or sewer systems in the county, or by the  
16 local health authority in areas where the authority to control installation  
17 of septic tanks or sewer systems has been delegated to a local authority. In  
18 areas where there is no local or county authority that controls the  
19 installation of septic tanks or sewer systems, the applicant shall apply for  
20 approval directly to the department of water resources.

21 G. Before approving a well site plan submitted pursuant to subsection  
22 F of this section, the county or local health authority or the department of  
23 water resources, as applicable, pursuant to subsection F of this section,  
24 shall review the well site plan and determine whether the proposed well  
25 location complies with applicable local laws, ordinances and regulations and  
26 any laws or rules adopted under this title and title 49 regarding the  
27 placement of wells and the proximity of wells to septic tanks or sewer  
28 systems. If the health authority or the department of water resources, as  
29 applicable, pursuant to subsection F of this section, finds that the proposed  
30 well location complies with this title and title 49 and with local  
31 requirements, it shall endorse the site plan and the proposed well placement  
32 in a manner indicating approval. On endorsement, the director of water  
33 resources shall approve the construction of the well, if all remaining  
34 requirements have been met. If the health authority is unable to determine  
35 whether the proposed well location complies with this title and title 49 and  
36 local requirements, it shall indicate this on the site plan and the decision  
37 to approve or reject the proposed construction rests with the director of  
38 water resources. If parcel size, geology or location of improvements on the  
39 property prevents the well from being drilled in accordance with this title  
40 and title 49 or local requirements, the property owner may apply for a  
41 variance. The property owner shall make the request for a variance to the  
42 county or local authority if a county or local law, ordinance or regulation  
43 prevents the proposed construction. If a law or rule adopted under this  
44 title or title 49 prevents the proposed construction, the property owner  
45 shall make the request for a variance directly to the department of water

1 resources. The request for a variance shall be in the form and shall contain  
2 the information that the department of water resources, county or local  
3 authority may require. The department of water resources, or the county or  
4 local authority whose law, ordinance or regulation prevents the proposed  
5 construction, may expressly require that a particular variance shall include  
6 certification by a registered professional engineer or geologist that the  
7 location of the well will not pose a health hazard to the applicant or  
8 surrounding property or inhabitants. If all necessary variances are  
9 obtained, the director of water resources shall approve the construction of  
10 the well if all remaining requirements have been met.

11 H. If a well that was originally drilled as an exploration well, a  
12 monitor well or a piezometer well or for any use other than domestic use is  
13 later proposed to be converted to use for domestic purposes as defined in  
14 section 45-454, the well owner shall file a notice of intention to drill and  
15 shall comply with this section before the well is converted and any water  
16 from that well is used for domestic purposes.

17 Sec. 5. Section 45-596, Arizona Revised Statutes, as amended by Laws  
18 1994, chapter 291, section 27 and chapter 300, section 2, is amended to read:  
19 45-596. Notice of intention to drill

20 A. In an area not subject to active management, a person may not drill  
21 or cause to be drilled any well or deepen an existing well without first  
22 filing notice of intention to drill pursuant to subsection C of this section  
23 or obtaining a permit pursuant to section 45-834.01.

24 B. In an active management area, a person may not drill or cause to  
25 be drilled an exempt well, a replacement well in approximately the same  
26 location or any other well for which a permit is not required under this  
27 article, article 7 of this chapter or section 45-834.01 or deepen an existing  
28 well without first filing a notice of intention to drill pursuant to  
29 subsection C of this section.

30 C. A notice of intention to drill shall be filed with the director on  
31 a form which is prescribed and furnished by the director and which shall  
32 include:

- 33 1. The name and mailing address of the person filing the notice.
- 34 2. The legal description of the land upon which the well is proposed  
35 to be drilled and the name and mailing address of the owner of the land.
- 36 3. The legal description of the location of the well on the land.
- 37 4. The depth, diameter and type of casing of the proposed well.
- 38 5. Such legal description of the land upon which the groundwater is  
39 proposed to be used as may be required by the director to administer this  
40 chapter.

41 6. When construction is to begin.

42 7. The proposed uses to which the groundwater will be applied.

43 8. The name and well driller's license number of the well driller who  
44 is to construct the well.

45 9. The design pumping capacity of the well.

1 10. If for a replacement well, the maximum capacity of the original  
2 well and the distance of the replacement well from the original well.

3 11. If the proposed well would pump Colorado river water, proof that  
4 the director determines to be satisfactory that the person who files the  
5 notice has the legal right to use Colorado river water. This paragraph does  
6 not apply to a proposed well that will have a pump with a maximum capacity  
7 of not more than thirty-five gallons per minute and that will be used for the  
8 supply, service and activities of households and private residences,  
9 including the application of water to less than two acres of land to produce  
10 plants or parts of plants for sale or human consumption or for use as feed  
11 for livestock, range livestock or poultry, as those terms are defined in  
12 section 3-1201.

13 12. Proof that the director determines to be satisfactory that the  
14 person proposing to construct the well holds a valid license issued by the  
15 registrar of contractors pursuant to title 32, chapter 10, and that the  
16 license is of the type necessary to construct the well described in the  
17 notice of intention to drill. If the proposed well driller does not hold a  
18 valid license, the director may accept proof that the proposed well driller  
19 is exempt from licensing as prescribed by section 32-1121.

20 13. If any water from the proposed well will be used for domestic  
21 purposes as defined in section 45-454, evidence of compliance with the  
22 requirements of subsection F of this section.

23 14. Such other information as the director may require.

24 ~~D. Notice of intention to drill shall be filed with the director in~~  
25 ~~duplicate. Upon receiving the A notice OF INTENTION TO DRILL, the director~~  
26 ~~shall endorse on the notice the date of its receipt. The director shall~~  
27 ~~determine whether all information that is required has been submitted and,~~  
28 ~~if applicable, whether the requirements of subsection C, paragraphs 11, 12~~  
29 ~~and 13 of this section have been met. If so, within fifteen days of receipt~~  
30 ~~of the notice, the director shall record the notice, and mail the duplicate~~  
31 ~~copy of the notice A DRILLING CARD THAT AUTHORIZES THE DRILLING OF THE WELL~~  
32 ~~TO THE WELL DRILLER IDENTIFIED IN THE NOTICE AND MAIL WRITTEN NOTICE OF THE~~  
33 ~~ISSUANCE OF THE DRILLING CARD to the person giving FILING the notice OF~~  
34 ~~INTENTION TO DRILL at the address stated in the notice. Upon receipt of a~~  
35 ~~copy of the notice showing the record of receipt by the director, this~~  
36 ~~section is deemed to have been fully complied with in respect to the drilling~~  
37 ~~or deepening of the well described in the notice, and the person giving the~~  
38 ~~notice THE DRILLING CARD, THE WELL DRILLER may proceed to drill or deepen the~~  
39 ~~well as described in the notice OF INTENTION TO DRILL. If the director~~  
40 ~~determines that the required information has not been submitted or, if~~  
41 ~~applicable, that the requirements of subsection C, paragraphs 11, 12 and 13~~  
42 ~~of this section have not been met, the director shall mail a statement of the~~  
43 ~~determination to the person giving the notice to the address stated in the~~  
44 ~~notice, and the person giving the notice may not proceed to drill or deepen~~  
45 ~~the well.~~

1 E. The well shall be completed within one year after the date of the  
2 notice. If the well is not completed within one year, the person shall file  
3 a new notice before proceeding with further construction.

4 F. If any water from a proposed well will be used for domestic  
5 purposes as defined in section 45-454 on a parcel of land twenty OF FIVE or  
6 fewer acres, the applicant shall submit a well site plan of the property with  
7 the notice of intention to drill. The site plan shall:

8 1. Include the county assessor's parcel identification number.

9 2. Show the proposed well location and the location of any septic tank  
10 or sewer system that is either located on the property or within one hundred  
11 feet of the proposed well site.

12 3. Show written approval by the county health authority that controls  
13 the installation of septic tanks or sewer systems in the county, or by the  
14 local health authority in areas where the authority to control installation  
15 of septic tanks or sewer systems has been delegated to a local authority. In  
16 areas where there is no local or county authority that controls the  
17 installation of septic tanks or sewer systems, the applicant shall apply for  
18 approval directly to the department of water resources.

19 G. Before approving a well site plan submitted pursuant to subsection  
20 F of this section, the county or local health authority or the department of  
21 water resources, as applicable, pursuant to subsection F of this section,  
22 shall review the well site plan and determine whether the proposed well  
23 location complies with applicable local laws, ordinances and regulations and  
24 any laws or rules adopted under this title and title 49 regarding the  
25 placement of wells and the proximity of wells to septic tanks or sewer  
26 systems. If the health authority or the department of water resources, as  
27 applicable, pursuant to subsection F of this section, finds that the proposed  
28 well location complies with this title, title 49 and with local requirements,  
29 it shall endorse the site plan and the proposed well placement in a manner  
30 indicating approval. On endorsement, the director of water resources shall  
31 approve the construction of the well, if all remaining requirements have been  
32 met. If the health authority is unable to determine whether the proposed  
33 well location complies with this title, title 49 and local requirements, it  
34 shall indicate this on the site plan and the decision to approve or reject  
35 the proposed construction rests with the director of water resources. If  
36 parcel size, geology or location of improvements on the property prevents the  
37 well from being drilled in accordance with this title, title 49 or local  
38 requirements, the property owner may apply for a variance. The property  
39 owner shall make the request for a variance to the county or local authority  
40 if a county or local law, ordinance or regulation prevents the proposed  
41 construction. If a law or rule adopted under this title or title 49 prevents  
42 the proposed construction, the property owner shall make the request for a  
43 variance directly to the department of water resources. The request for a  
44 variance shall be in the form and shall contain the information that the  
45 department of water resources, county or local authority may require. The

1 department of water resources, or the county or local authority whose law,  
2 ordinance or regulation prevents the proposed construction, may expressly  
3 require that a particular variance shall include certification by a  
4 registered professional engineer or geologist that the location of the well  
5 will not pose a health hazard to the applicant or surrounding property or  
6 inhabitants. If all necessary variances are obtained, the director of water  
7 resources shall approve the construction of the well if all remaining  
8 requirements have been met.

9 H. If a well that was originally drilled as an exploration well, a  
10 monitor well or a piezometer well or for any use other than domestic use is  
11 later proposed to be converted to use for domestic purposes as defined in  
12 section 45-454, the well owner shall file a notice of intention to drill and  
13 shall comply with this section before the well is converted and any water  
14 from that well is used for domestic purposes.

15 Sec. 6. Section 45-599, Arizona Revised Statutes, is amended to read:  
16 45-599. Permit application; contents; correction of defective  
17 application; issuance of permit

18 A. An application for a permit to construct a new well or replacement  
19 well in a new location shall be made on a form prescribed and furnished by  
20 the director which shall include:

- 21 1. The name and mailing address of the applicant.
- 22 2. The legal description of the land upon which the new well is  
23 proposed to be constructed and the name and mailing address of the owner of  
24 the land.
- 25 3. The legal description of the proposed location of the new well on  
26 the land.
- 27 4. If for a replacement well, the legal description of the land upon  
28 which the original well is located, the name and mailing address of the owner  
29 of the land, the legal description of the location of the original well on  
30 the land, the depth and diameter of the original well and evidence of proper  
31 abandonment.
- 32 5. The depth, diameter and type of casing of the new well.
- 33 6. Such legal description of the land upon which the groundwater is  
34 proposed to be used as may be required by the director to administer this  
35 chapter.
- 36 7. When construction is to begin.
- 37 8. The proposed use of the groundwater to be withdrawn.
- 38 9. The design pumping capacity of the new well.
- 39 10. The name and well driller's license number of the well driller who  
40 is to construct the well.
- 41 11. The estimated time required to complete the well, if more than one  
42 year from the date of receipt of the permit.
- 43 12. Such other information including any maps, drawings and data as the  
44 director may require.

1 B. Upon receipt of a permit application, the director shall endorse  
2 on the application the date of its receipt. If the application is incorrect  
3 or incomplete, the director may request additional information from the  
4 applicant. The director may conduct independent investigations as may be  
5 necessary to determine whether the application should be approved or  
6 rejected.

7 C. The director shall approve an application for a permit for a new  
8 well or a replacement well in a new location if the proposed well complies  
9 with the rules and regulations adopted pursuant to section 45-598, subsection  
10 A and, if the proposed well is in the Santa Cruz active management area, if  
11 the location of the proposed well is consistent with the management plan for  
12 the active management area.

13 D. Except as provided in subsection E of this section, within sixty  
14 days of receipt of a complete and correct application, the director shall  
15 ~~record and endorse the approval or rejection of the application on the~~  
16 ~~application and return a copy of the application to the applicant~~ APPROVE OR  
17 REJECT THE APPLICATION AND MAIL NOTICE OF THE ACTION TO THE APPLICANT.

18 E. If the director determines that an administrative hearing should  
19 be held before approving or rejecting an application, the director shall  
20 notify the applicant of the date of the hearing within sixty days of receipt  
21 of the complete and correct application.

22 F. If at the request of the applicant the director determines that an  
23 emergency exists, the director shall expedite all decisions under this  
24 section.

25 G. If the application is approved, the director shall issue a permit  
26 and the applicant may proceed to construct the well. If the application is  
27 rejected, the applicant shall not proceed with construction of the well. The  
28 well shall be completed within one year of receipt of the permit, unless the  
29 director in granting the permit approves a longer period to complete the  
30 well. If the well is not completed within one year or the longer period  
31 approved by the director, the applicant shall file a new application before  
32 proceeding with construction.

33 H. The permit shall state the following:

34 1. The legal description of the land upon which the well may be  
35 constructed.

36 2. The legal description of the location of the new well on the land.

37 3. The depth and diameter of the well and type of casing.

38 4. The maximum pumping capacity of the well.

39 5. The legal description of the land upon which the groundwater will  
40 be used.

41 6. The use of the groundwater to be withdrawn.

42 7. The latest date for completing the well.

43 8. Section 45-114, subsections A and B govern administrative  
44 proceedings, rehearing or review and judicial review of final decisions of

1 the director under this section. If an administrative hearing is held, it  
2 shall be conducted in the active management area in which the use is located.

3 Sec. 7. Section 45-600, Arizona Revised Statutes, is amended to read:  
4 45-600. Filing of report by driller; filing of completion  
5 report

6 A. A well driller shall maintain a complete and accurate log of each  
7 well he drills DRILLED. Within thirty days of completion of the drilling of  
8 any well in this state, the driller shall file a copy of the log of the well  
9 WELL DRILLER REPORT with the director WHICH SHALL INCLUDE ALL INFORMATION  
10 CONTAINED IN THE LOG OF THE WELL, including information on the casing of the  
11 well and, IF THE WELL IS AN ARTESIAN WELL, the capping applied, if it is an  
12 artesian well. The director shall prescribe well driller report forms and  
13 the department shall furnish them on request.

14 B. Within thirty days after the installation of pumping equipment in  
15 any well in this state, the registered well owner shall file a completion  
16 report with the director. The director shall prescribe the completion report  
17 form and the department shall furnish them on request. The completion report  
18 form shall include:

19 1. The type of equipment installed.

20 2. Tested pumping capacity of the well in gallons per minute as  
21 determined for a non-flowing well by measuring the discharge of the pump  
22 after continuous operation for at least four hours, or for a flowing well by  
23 measuring the natural flow at the land surface.

24 3. Drawdown of the water level measured in feet for a non-flowing well  
25 after not less than four hours of continuous operation and while still in  
26 operation, or for a flowing well, the shut-in pressure measured in feet above  
27 the land surface or in pounds per square inch at the land surface.

28 4. Depth in feet from the land surface to the static groundwater  
29 level, measured immediately prior to the well-capacity test.

30 5. Such other information as the director may require.

31 Sec. 8. Section 45-612, Arizona Revised Statutes, is amended to read:  
32 45-612. Administration and enforcement withdrawal fee;

33 exemption from lapsing; disposition of excess monies

34 A. Each year the legislature shall appropriate sufficient monies to  
35 the department to cover all costs of administration and enforcement of this  
36 chapter.

37 B. Not later than October 1 of each year, the director shall estimate  
38 the total amount of groundwater to be withdrawn in all active management  
39 areas except the Tucson, Phoenix, Pinal and Santa Cruz active management  
40 areas during the following calendar year and the total amount of water, other  
41 than stored water, to be withdrawn in the Santa Cruz active management area  
42 during the following calendar year, and set the administration and  
43 enforcement fee pursuant to section 45-611, subsection A, paragraph 1 to  
44 produce an amount equal to one-half of the amount budgeted by the director  
45 for administration and enforcement purposes for the following fiscal

1 year. In setting the administration and enforcement fee, the director shall  
2 account for excess payments or deficiencies in payments in the past fiscal  
3 year. Except as provided in section 45-113, SUBSECTION C, monies collected  
4 from administration and enforcement fees shall be deposited in the state  
5 general fund.

6 C. For the Tucson, Phoenix and Pinal active management areas, not  
7 later than October 1, 2016 and by October 1 of each year thereafter, the  
8 director shall estimate the total amount of groundwater to be withdrawn in  
9 each active management area and shall set the administration and enforcement  
10 fee pursuant to section 45-611, subsection C, paragraph 1 to produce an  
11 amount equal to one-half of the amount budgeted by the director for  
12 administration and enforcement purposes for the following fiscal year. In  
13 setting the administration and enforcement fee, the director shall account  
14 for excess payments or deficiencies in payments in the past fiscal  
15 year. Except as provided in section 45-113, SUBSECTION C, monies collected  
16 from administration and enforcement fees shall be deposited in the state  
17 general fund.

18 D. Monies budgeted for administration and enforcement purposes  
19 pursuant to this section are exempt from lapsing under section 35-190. If  
20 the administration and enforcement fee is set at fifty cents and excess  
21 payments have been received, such excess payments shall be credited to the  
22 augmentation and conservation assistance fund established under section  
23 45-615 and credited among the active management areas in proportion to the  
24 amount of such monies collected from each active management area.

25 Sec. 9. Section 45-615, Arizona Revised Statutes, is amended to read:  
26 45-615. Deposits; divisions of collections into funds

27 Except as provided in section 45-113, SUBSECTION C, the director shall  
28 deposit, pursuant to sections 35-146 and 35-147, all monies collected by the  
29 department pursuant to section 45-611, subsection A, paragraphs 2 and 3 and  
30 subsection C, paragraphs 2, 3 and 4 and any other monies received for that  
31 purpose. Based on the statement of the director transmitted pursuant to  
32 section 45-614, subsection B, the monies collected shall be allocated as  
33 follows:

34 1. Except as provided in paragraph 2 of this section, monies received  
35 for the purpose of augmentation of the water supply of the active management  
36 area, conservation assistance to water users within the active management  
37 area and monitoring and assessing water availability within the active  
38 management area shall be kept in an augmentation and conservation assistance  
39 fund. Separate accounts for each active management area shall be maintained  
40 within the fund. On notice from the director, the state treasurer shall  
41 invest and divest monies in the fund as provided by section 35-313, and  
42 monies earned from investment shall be credited to the fund.

43 2. If an active management area water district has been established  
44 in an active management area, all monies received pursuant to section 45-611,  
45 subsection A, paragraph 2 for the purpose of augmentation of the water supply

1 of that active management area shall be transmitted to the  
2 secretary-treasurer of the district for deposit in the general fund of the  
3 district.

4 3. Monies received for the purpose of purchase and retirement of  
5 grandfathered rights shall be kept in a purchase and retirement fund.  
6 Separate accounts for each active management area shall be maintained within  
7 the fund. On notice from the director, the state treasurer shall invest and  
8 divest monies in the fund as provided by section 35-313, and monies earned  
9 from investment shall be credited to the fund.

10 4. Monies received for the purpose of Arizona water banking shall be  
11 deposited, pursuant to sections 35-146 and 35-147, in the Arizona water  
12 banking fund.

13 Sec. 10. Section 45-811.01, Arizona Revised Statutes, is amended to  
14 read:

15 45-811.01. Underground storage facility permit

16 A. A person may apply to the director for a constructed underground  
17 storage facility permit or a managed underground storage facility permit and  
18 may operate an underground storage facility only pursuant to a permit.

19 B. A person applying to the director for a managed underground storage  
20 facility permit may request to have the facility designated as a facility  
21 that could add value to a national park, national monument or state park if  
22 that park or monument includes any portion of a natural channel of a stream  
23 or adjacent floodplain that would benefit from the facility.

24 C. The director may issue a permit to operate an underground storage  
25 facility if the director determines that all of the following apply:

26 1. The applicant has the technical and financial capability to  
27 construct and operate the facility.

28 2. Storage of the maximum amount of water that could be in storage at  
29 any one time at the facility is hydrologically feasible.

30 3. Storage at the facility will not cause unreasonable harm to land  
31 or other water users within the maximum area of impact of the maximum amount  
32 of water that could be in storage at any one time at the underground storage  
33 facility over the duration of the permit.

34 4. The applicant has ~~applied for and has received~~ AGREED IN WRITING  
35 TO OBTAIN any required floodplain use permit from the county flood control  
36 district BEFORE BEGINNING ANY CONSTRUCTION ACTIVITIES.

37 5. The director of environmental quality has determined that the  
38 facility is not in a location that will promote either the migration of a  
39 contaminant plume or the migration of a poor quality groundwater area so as  
40 to cause unreasonable harm or is not in a location that will result in  
41 pollutants being leached to the groundwater table so as to cause unreasonable  
42 harm, if the proposed water storage at the underground storage facility is  
43 exempt from the requirement for an aquifer protection permit under section  
44 49-250, subsection B, paragraph 12, 13 or 24. For any facility exempt under  
45 section 49-250, subsection B, paragraph 24, the director OF WATER RESOURCES,

1 after consultation with the director of the department of environmental  
2 quality, may include in ~~any such~~ THE permit any requirements, including  
3 operation, maintenance, monitoring, record keeping, reporting, contingency  
4 plan or remedial action requirements, as the director OF WATER RESOURCES  
5 deems necessary.

6 D. The director may designate a managed underground storage facility  
7 as one that could add value to a national park, national monument or state  
8 park if the director finds that all of the following apply:

9 1. The applicant has agreed in writing to maintain a quantified,  
10 minimum base flow and annual discharge to the stream for the duration of the  
11 permit.

12 2. The project will benefit the groundwater basin as a whole.

13 Sec. 11. Section 45-834.01, Arizona Revised Statutes, is amended to  
14 read:

15 45-834.01. Recovery of stored water; recovery well permit;  
16 emergency temporary recovery well permit; well  
17 construction

18 A. A person who holds long-term storage credits or who may recover  
19 water on an annual basis may recover the water stored pursuant to a water  
20 storage permit only:

21 1. If the person seeking to recover stored water has applied for and  
22 received a recovery well permit under this article.

23 2. For water stored within an active management area, from wells that  
24 are located:

25 (a) Within the area of impact of the stored water, as determined by  
26 the director, if the person recovering the water is the storer, ~~subject to~~  
27 ~~the following~~ if the stored water to be recovered is effluent that is stored  
28 in a managed underground storage facility AND if the proposed recovery well  
29 is not an already constructed well owned by the person recovering the water  
30 and is located within the exterior boundaries of the service area of a city,  
31 town, private water company or irrigation district, that city, town, private  
32 water company or irrigation district must be notified by the person  
33 recovering the stored water and MUST have the right to offer to recover the  
34 water stored on behalf of that person. If the city, town, private water  
35 company or irrigation district offers to recover the water on behalf of the  
36 person seeking recovery and the water that is offered for recovery is of  
37 comparable quality to the water that the person could recover, the person  
38 seeking to recover the water shall consider accepting the best offer from the  
39 city, town, private water company or irrigation district overlying the area  
40 of impact that has offered to recover the stored water.

41 (b) Within the same active management area as storage, if the director  
42 determines that recovery at the proposed location is consistent with the  
43 management plan and achievement of the management goal for the active  
44 management area subject to the following:

1 (i) If the proposed recovery well is located within the exterior  
2 boundaries of the service area of a city, town, private water company or  
3 irrigation district, that city, town, private water company or irrigation  
4 district is the person seeking to recover the water or has consented to the  
5 location of the recovery well.

6 (ii) If the proposed recovery well is located outside, but within  
7 three miles of, the exterior boundaries of the service area of a city, town,  
8 private water company or irrigation district, the closest city, town, private  
9 water company or irrigation district has consented to the location of the  
10 recovery well.

11 3. For water stored outside of an active management area, if recovery  
12 will occur within the same irrigation non-expansion area, groundwater basin  
13 or groundwater sub-basin, as applicable, in which the water was stored.

14 B. Before recovering from any well water stored pursuant to a water  
15 storage permit, a person shall apply for and receive a recovery well permit  
16 from the director. The director shall issue the recovery well permit if the  
17 director determines that:

18 1. If the application is for a new well, as defined in section 45-591,  
19 or except as provided in paragraph PARAGRAPHS 2 AND 3 of this subsection for  
20 an existing well, as defined in section 45-591, the proposed recovery of  
21 stored water will not unreasonably increase damage to surrounding land or  
22 other water users from the concentration of wells. The director shall make  
23 this determination pursuant to rules adopted by the director.

24 2. If the applicant is a city, town, private water company or  
25 irrigation district in an active management area and the application is for  
26 an existing well within the service area of the city, town, private water  
27 company or irrigation district, the applicant has a right to use the existing  
28 well.

29 3. If the applicant is a conservation district and the application is  
30 for an existing well within the conservation district and within the  
31 groundwater basin or sub-basin in which the stored water is located, the  
32 applicant has a right to use the existing well.

33 C. A city, town, private water company or irrigation district in an  
34 active management area may apply with a single application to the director  
35 to have all existing wells, as defined in section 45-591, that the applicant  
36 has the right to use within its service area listed as recovery wells on the  
37 recovery well permit, if those wells otherwise meet the requirements of this  
38 section.

39 D. If the applicant is a conservation district, the director may issue  
40 an emergency temporary recovery well permit without complying with section  
41 45-871.01, subsection F if the director determines that all of the following  
42 apply:

43 1. The conservation district cannot reasonably continue to supply  
44 central Arizona project water directly to a city, town, private water company

1 or irrigation district due to an unplanned failure of a portion of the  
2 central Arizona project delivery system.

3 2. The emergency temporary recovery well permit is necessary to allow  
4 the conservation district to provide immediate delivery of replacement water  
5 to the city, town, private water company or irrigation district.

6 3. The application is for an existing well as defined in section  
7 45-591 that is within the groundwater basin or groundwater sub-basin in which  
8 the stored water is located, is within the conservation district and is  
9 within the service area of the city, town, private water company or  
10 irrigation district.

11 E. An emergency temporary recovery well permit issued pursuant to  
12 subsection D of this section may be issued for a period of up to ninety days  
13 and may be extended for additional ninety day periods if the director  
14 determines that the conditions prescribed in subsection D of this section  
15 continue to apply.

16 F. If the application for a recovery well permit is approved, the  
17 director shall issue a permit and the applicant may proceed to construct or  
18 use the well. If the application is rejected, the applicant shall not  
19 proceed to construct or use the well. A new well shall be completed within  
20 one year of receipt of the permit, unless the director in granting the permit  
21 approves a longer period to complete the well. If the well is not completed  
22 within one year or the longer period approved by the director, the applicant  
23 shall file a new application before proceeding with construction.

24 G. A recovery well permit shall include the following information:

25 1. The name and mailing address of the person to whom the permit is  
26 issued.

27 2. The legal description of the location of the existing well or  
28 proposed new well from which stored water may be recovered pursuant to the  
29 permit.

30 3. The purpose for which the stored water will be recovered.

31 4. The depth and diameter of the existing well or proposed new well  
32 from which stored water may be recovered pursuant to the permit.

33 5. The legal description of the land on which the stored water will  
34 be used.

35 6. The maximum pumping capacity of the existing well or proposed new  
36 well.

37 7. If the permit is for a proposed new well, the latest date for  
38 completing the proposed new well.

39 8. Any other information as the director may determine.

40 Sec. 12. Section 45-893.01, Arizona Revised Statutes, is amended to  
41 read:

42 45-893.01. Application for project permits; application  
43 requirement; permit specifications

44 A. A conservation district may apply to the director pursuant to  
45 articles 2 and 3 of this chapter for project permits for one or more state

1 demonstration projects to be funded by account A of the state water storage  
2 fund established by section 45-897.01 and one or more projects to be funded  
3 by account B of the fund. Each project shall be located in EITHER OF THE  
4 FOLLOWING:

5 1. A county for the benefit of which the account that funds the  
6 project was established.

7 2. A COUNTY THAT IS ADJACENT TO THE COUNTY FOR THE BENEFIT OF WHICH  
8 THE ACCOUNT THAT FUNDS THE PROJECT WAS ESTABLISHED IF BOTH OF THE FOLLOWING  
9 APPLY:

10 (a) THE PROJECT IS WITHIN THE SAME ACTIVE MANAGEMENT AREA AS THE  
11 COUNTY FOR WHICH THE ACCOUNT THAT FUNDS THE PROJECT WAS ESTABLISHED.

12 (b) WATER STORED AT THE PROJECT WILL PROVIDE HYDROLOGIC BENEFIT TO THE  
13 COUNTY FOR WHICH THE ACCOUNT WAS ESTABLISHED.

14 B. In addition to the information required by articles 2 and 3 of this  
15 chapter, the conservation district's permit application shall contain plans  
16 for the state demonstration project and projections of the capital, operation  
17 and maintenance costs of the project, exclusive of water recovery costs. The  
18 plans and projections shall contain information adequate to permit the  
19 director to determine whether sufficient monies will be available from the  
20 state water storage fund to cover the projected costs of the proposed state  
21 demonstration project, considering all other obligations of the fund.

22 C. If the director approves the conservation district's project permit  
23 applications, the director shall specify in the permit or in a written  
24 memorandum of understanding between the director, the conservation district  
25 and the state treasurer the conditions under which and the timing pursuant  
26 to which monies shall be disbursed by the state treasurer to the conservation  
27 district from the state water storage FUND. The permit or the memorandum of  
28 understanding:

29 1. Shall provide for the advancement to the conservation district of  
30 the capital, operation and maintenance costs of the project, exclusive of  
31 water recovery costs, and the advancement of additional necessary monies to  
32 the conservation district, if the monies initially advanced are insufficient  
33 to cover those costs.

34 2. Shall provide for the continuing disbursement from the fund of  
35 monies for the purchase of excess central Arizona project water.

36 3. May provide for the use of monies in the fund to cover the  
37 conservation district's costs of recovering, transporting and delivering the  
38 stored water and the costs of dismantling the project.

39 D. If the director approves the conservation district's application  
40 for the project permits, the conservation district may contract for excess  
41 central Arizona project water for storage in the state demonstration project  
42 and may enter into agreements with the director for the disposition of such  
43 water as provided in section 45-895.01.

1           Sec. 13. Section 45-895.01, Arizona Revised Statutes, is amended to  
2 read:

3           45-895.01. Storage of water; availability and disposition of  
4                                   stored water

5           A. Water THAT IS stored in a state demonstration project, THAT IS  
6 PURCHASED WITH MONIES FROM THE STATE WATER STORAGE FUND ESTABLISHED BY  
7 SECTION 45-897.01 AND that is eligible for credits in a long-term storage  
8 account pursuant to section 45-852.01 shall be credited to a state  
9 demonstration subaccount of the conservation district's long-term storage  
10 account. The credits in this subaccount shall be used only for municipal and  
11 industrial purposes and shall be used only in the county for the benefit of  
12 which the state demonstration project was constructed by the conservation  
13 district.

14           B. Water stored in a state demonstration subaccount shall be available  
15 for disposition by the director during any time when the director determines  
16 either of the following applies:

17           1. The amount of central Arizona project water available for delivery  
18 to central Arizona project municipal and industrial subcontractors is  
19 insufficient to meet the contractual entitlements of the subcontractors.

20           2. There is a significant interruption of the conservation district's  
21 ability to make deliveries of central Arizona project water in the county for  
22 the benefit of which the state demonstration project was constructed.

23           C. The director may dispose of water stored pursuant to this article  
24 only when one of the conditions described in subsection B of this section  
25 exists. The director may dispose of the water to a person, including a  
26 person who is not an existing central Arizona project municipal and  
27 industrial subcontractor, who has filed a request for the water. In  
28 disposing of the water, the director shall take into account the reasonable  
29 water needs of persons who have filed requests for the water and the  
30 applicable provisions of the state water plan, if any, in effect at the time  
31 of the request. The director shall require as a condition of the disposition  
32 of water that:

33           1. The person who receives the water shall pay the conservation  
34 district's costs, if any, of recovering, transporting and delivering the  
35 water to the person, but the person is not required to pay any other costs  
36 of construction, operation or maintenance of the state demonstration  
37 project. If monies from the state water storage fund established by section  
38 45-897.01 are used to cover the conservation district's cost of recovering,  
39 transporting or delivering the water stored, the person who receives the  
40 water shall reimburse the fund for those costs.

41           2. The person who receives the water shall agree to be bound by the  
42 relevant terms and conditions of any applicable contract between the  
43 conservation district and the United States.



Passed the House April 29, 2002,

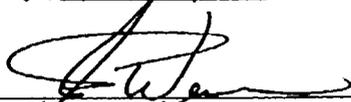
Passed the Senate March 25, 2002,

by the following vote: 52 Ayes,

by the following vote: 29 Ayes,

4 Nays, 4 Not Voting

0 Nays, 1 Not Voting

  
Speaker of the House

  
President of the Senate

  
Chief Clerk of the House

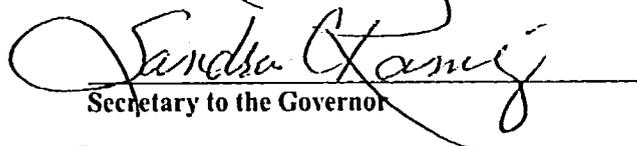
  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

30 day of April, 2002

at 11:27 o'clock A M.

  
Secretary to the Governor

Approved this 2 day of

May, 2002,

at 10:07 o'clock P M.

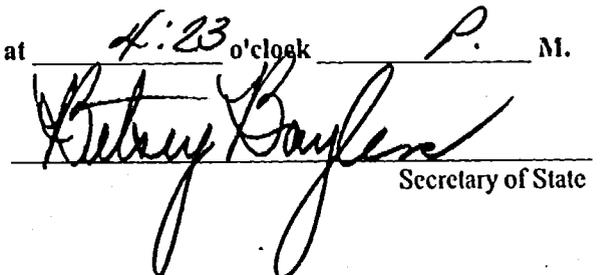
  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 2 day of May, 2002

at 4:23 o'clock P M.

  
Secretary of State

S.B. 1363