

Conference Engrossed

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
Second Regular Session  
2004

CHAPTER 300

## HOUSE BILL 2590

AN ACT

AMENDING SECTION 45-834.01, ARIZONA REVISED STATUTES; RELATING TO UNDERGROUND WATER STORAGE, SAVINGS AND REPLENISHMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-834.01, Arizona Revised Statutes, is amended to  
3 read:

4 45-834.01. Recovery of stored water; recovery well permit;  
5 emergency temporary recovery well permit; well  
6 construction

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

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

12 2. For water stored within an active management area, ~~from wells that~~  
13 ~~are located~~ IF ONE OF THE FOLLOWING APPLIES:

14 (a) THE PROPOSED RECOVERY WELL IS LOCATED within the area of impact  
15 of the stored water, as determined by the director, ~~if~~ AND EITHER the person  
16 recovering the water is the storer OR THE STORED WATER TO BE RECOVERED IS  
17 COLORADO RIVER WATER. ~~;~~ If the stored water to be recovered is effluent  
18 that is stored in a managed underground storage facility and if the proposed  
19 recovery well is not an already constructed well owned by the person  
20 recovering the water and is located within the exterior boundaries of the  
21 service area of a city, town, private water company or irrigation district,  
22 that city, town, private water company or irrigation district must be  
23 notified by the person recovering the stored water and must have the right  
24 to offer to recover the water stored on behalf of that person. If the city,  
25 town, private water company or irrigation district offers to recover the  
26 water on behalf of the person seeking recovery and the water that is offered  
27 for recovery is of comparable quality to the water that the person could  
28 recover, the person seeking to recover the water shall consider accepting the  
29 best offer from the city, town, private water company or irrigation district  
30 overlying the area of impact that has offered to recover the stored water.

31 (b) THE PROPOSED RECOVERY WELL IS LOCATED OUTSIDE THE AREA OF IMPACT  
32 OF THE STORED WATER, AS DETERMINED BY THE DIRECTOR, AND ALL OF THE FOLLOWING  
33 APPLY:

34 ~~(b)~~ (i) THE PROPOSED RECOVERY WELL IS LOCATED within the same active  
35 management area as storage. ~~;~~ ~~if~~

36 (ii) The director determines that recovery at the proposed location  
37 is consistent with the management plan and achievement of the management goal  
38 for the active management area. ~~subject to the following:~~

39 ~~(i)~~ (iii) If the proposed recovery well is located within the  
40 exterior boundaries of the service area of a city, town, private water  
41 company or irrigation district, that city, town, private water company or  
42 irrigation district is the person seeking to recover the water or has  
43 consented to the location of the recovery well.

44 ~~(ii)~~ (iv) If the proposed recovery well is located outside, but  
45 within three miles of, the exterior boundaries of the service area of a city,

1 town, private water company or irrigation district, the closest city, town,  
2 private water company or irrigation district has consented to the location  
3 of the recovery well.

4 (c) THE PROPOSED RECOVERY WELL IS LOCATED WITHIN THE AREA OF IMPACT  
5 OF THE STORED WATER, AS DETERMINED BY THE DIRECTOR, THE PERSON RECOVERING THE  
6 WATER IS NOT THE STORER, THE STORED WATER TO BE RECOVERED IS NOT COLORADO  
7 RIVER WATER AND ALL OF THE CONDITIONS PRESCRIBED BY SUBDIVISION (b), ITEMS  
8 (i) THROUGH (iv) OF THIS PARAGRAPH ARE MET.

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

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

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

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

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

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

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

41 1. The conservation district cannot reasonably continue to supply  
42 central Arizona project water directly to a city, town, private water company  
43 or irrigation district due to an unplanned failure of a portion of the  
44 central Arizona project delivery system.

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

4           3. The application is for an existing well as defined in section  
5 45-591 that is within the groundwater basin or groundwater sub-basin in which  
6 the stored water is located, is within the conservation district and is  
7 within the service area of the city, town, private water company or  
8 irrigation district.

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

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

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

23           1. The name and mailing address of the person to whom the permit is  
24 issued.

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

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

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

31           5. The legal description of the land on which the stored water will  
32 be used.

33           6. The maximum pumping capacity of the existing well or proposed new  
34 well.

35           7. If the permit is for a proposed new well, the latest date for  
36 completing the proposed new well.

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

**APPROVED BY THE GOVERNOR JUNE 1, 2004.**

**FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 1, 2004.**

Passed the House March 15, 2004,

Passed the Senate April 29, 2004,

by the following vote: 57 Ayes,

by the following vote: 16 Ayes,

0 Nays, 3 Not Voting

10 Nays, 4 Not Voting

Jake Flake  
Speaker of the House

John Bennett  
President of the Senate

Norman L. Moore  
Chief Clerk of the House

Charmian Ballinger  
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR**

This Bill was received by the Governor this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

H.B. 2590

**HOUSE FINAL PASSAGE**  
as per Joint Conference

Passed the House \_\_\_\_\_, 20\_\_\_\_,

by the following vote: \_\_\_\_\_ Ayes,

\_\_\_\_\_ Nays, \_\_\_\_\_ Not Voting

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

**SENATE FINAL PASSAGE**  
as per Joint Conference

Passed the Senate May 25, 2004,

by the following vote: 23 Ayes,

6 Nays, 1 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA**  
**OFFICE OF GOVERNOR**

This Bill was received by the Governor

this 26th day of May, 2004,

at 10:08 o'clock a. M.

[Signature]  
Secretary to the Governor

Approved this 1 day of

June, 2004,

at 3:45 o'clock P. M.

[Signature]  
Governor of Arizona

H.B. 2590

**EXECUTIVE DEPARTMENT OF ARIZONA**  
**OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this 1 day of June, 2004

at 4:38 o'clock P. M.

[Signature]  
Secretary of State