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KEN BENNETT
SECRETARY OF STATE

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CHAPTER 300

SENATE BILL 1141

AN ACT

AMENDING SECTIONS 45-576.01, 45-576.03, 48-3712, 48-3713, 48-3751, 48-3762, 48-3772 AND 48-3774, ARIZONA REVISED STATUTES; AMENDING TITLE 48, CHAPTER 22, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 48-3779; AMENDING SECTION 48-3780.01, ARIZONA REVISED STATUTES; RELATING TO GROUNDWATER REPLENISHMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 45-576.01, Arizona Revised Statutes, is amended to read:

45-576.01. Determining consistency with management goal in a replenishment district, conservation district and water district

A. For the purpose of determining whether an assured water supply exists, the director shall find that a groundwater replenishment district member's projected use is consistent with achieving the management goal for the active management area under section 45-576 if:

1. The land for which a certificate or the city, town or private water company for which a designation is sought is in a groundwater replenishment district established pursuant to title 48, chapter 27.

2. The director has made either a preliminary determination that has not expired or a final determination that the district's plan for operation is consistent with achieving the management goal according to section 45-576.03, subsection E.

3. The master replenishment account established pursuant to section 45-858.01 does not have a debit balance that exceeds the cumulative amount of the district's debits accrued during the four preceding calendar years.

B. For the purpose of determining whether an assured water supply exists, the director shall find that a projected use is consistent with achieving the management goal for the active management area under section 45-576 if all of the following apply:

1. The land for which a certificate is sought is a member land, or the service area of a city, town or private water company for which a designation is sought is a member service area, in a conservation district as provided by title 48, chapter 22, article 4, or the land for which a certificate is sought is a water district member land, or the service area for which a designation is sought is a water district member service area in a water district as provided by title 48, chapter 28, article 7.

~~2. The director has made a determination that has not expired that the most recent plan for operation submitted under section 45-576.02, subsection C or E by the conservation district or the water district, whichever is obligated to replenish groundwater on behalf of the land for which a certificate is sought or the service area of a city, town or private water company for which a designation is sought, is consistent with achieving the management goal for the active management area in which the use is located according to section 45-576.03, subsection N or O, as applicable.~~

2. THE DIRECTOR'S MOST RECENT DETERMINATION PURSUANT TO SECTION 45-576.03, SUBSECTION M, O OR R THAT THE PLAN FOR OPERATION SUBMITTED BY THE CONSERVATION DISTRICT OR WATER DISTRICT IS CONSISTENT WITH ACHIEVING THE MANAGEMENT GOAL FOR THE ACTIVE MANAGEMENT AREA IN WHICH THE USE IS LOCATED HAS NOT EXPIRED.

3. The conservation district or the water district, whichever is obligated to replenish groundwater on behalf of the land for which a certificate is sought or the service area of a city, town or private water company for which a designation is sought, is currently in compliance with its groundwater replenishment obligation for the active management area in which the use is located, as determined by the director pursuant to section 45-859.01 or 45-860.01.

Sec. 2. Section 45-576.03, Arizona Revised Statutes, is amended to read:

45-576.03. Director's review of plans

A. Within sixty days after receiving a groundwater replenishment district's preliminary and long-range plans pursuant to section 45-576.02, the director shall determine if the district has submitted sufficient information to determine whether the district's plan for operation is consistent with the management goal of the active management area. If the director determines that the information is insufficient for such a determination, the director shall notify the district of the insufficiency in writing and shall specify what additional information is required. The district shall provide the information to the director within thirty days after receiving the notice.

B. On determining that the district's preliminary or long-range plan is complete, the director shall publish notice in a newspaper of general statewide circulation once each week for two consecutive weeks:

1. Requesting public comment concerning information supplied by the district to meet the requirements of section 45-576.02.

2. Setting a date and location of a public hearing to be held pursuant to subsection C of this section.

C. The director shall hold a public hearing within sixty days after the last day of notice under subsection B of this section. The hearing shall be conducted in an informal manner without adhering to the rules of evidence required in judicial proceedings. Any person, including the department, shall have an opportunity to comment on or to present evidence concerning the submitted plan.

D. The district shall respond in writing to all public comments whether received at the hearing or otherwise received by a date announced by the director.

E. Within one hundred twenty days after the hearing on the preliminary plan, the director shall issue a preliminary decision determining whether or not the plan for district operation shall be designated as being consistent with achieving the management goal. If the director determines that the preliminary plan for district operation is consistent with achieving the management goal, the designation expires on January 1 of the thirteenth calendar year following the calendar year in which the district is established. Within one hundred twenty days after the hearing on the long-range plan, the director shall issue a final decision determining

whether or not the plan for district operation shall be designated as being consistent with achieving the management goal. The director shall include findings with the decision and a summary of all public comments received in writing and public comments made at the public hearing.

F. The director shall issue a decision that the district's plan for operation is consistent with achieving the management goal if the director finds that the district has the current capability to meet the district members' replenishment obligations for the five calendar years following the calendar year in which the district submits its plan and, in addition, the director makes either of the following findings, as applicable:

1. If the director is evaluating the preliminary plan, that the district has established an adequate plan for obtaining financing and water resources that are necessary to meet the district members' replenishment obligations through the eighteenth calendar year following the year in which the district is established.

2. If the director is evaluating the long-range plan, that the district has established an adequate plan to meet the projected replenishment obligations through the first calendar year in which achieving safe-yield is required.

G. Unless the district successfully appeals the director's decision pursuant to subsection H of this section, if the director has made a determination that the district's plan for operation is not consistent with achieving the management goal, the director shall notify the district of the inconsistency in writing and shall specify how the district's plan for operation is inconsistent with achieving the management goal. The district shall modify its proposed plan and resubmit the plan, and the director shall review the plan as provided by section 45-576.02 and this section, except that the director shall only hold a hearing regarding those matters that the district has modified in its resubmitted plan.

H. The director's determination under subsection E of this section is subject to rehearing or review and to judicial review as provided in section 45-114, subsection C, but the court shall not issue a temporary restraining order or preliminary injunction to prevent the director from acting under this chapter while the action is pending.

I. Within sixty days after receiving a conservation district's plan or a water district's plan pursuant to section 45-576.02, including a revised plan pursuant to subsection R of this section, the director shall determine if the conservation district or water district, as the case may be, has submitted sufficient information to determine whether the conservation district's plan for operation is consistent with the management goals of each of the active management areas in which a member land or member service area is or may be located or whether the water district's plan for operation is consistent with the management goal of the active management area in which a water district member land or a water district member service area is or may be located. If the director determines that the information is insufficient

for such a determination, the director shall notify the conservation district or water district, as the case may be, of the insufficiency in writing and shall specify what additional information is required. The conservation district or water district, as the case may be, shall provide the information to the director within a reasonable time as specified by the director.

J. On determining that the conservation district's plan or the water district's plan, as the case may be, is complete, the director shall publish notice in a newspaper of general statewide circulation once each week for two consecutive weeks:

1. Requesting public comment concerning information supplied by the conservation district or water district, as the case may be, to meet the requirements of section 45-576.02.

2. Setting a date and location of a public hearing to be held pursuant to subsection K of this section.

K. The director shall hold a public hearing within sixty days after the last day of the notice under subsection J of this section. The hearing shall be conducted in an informal manner without adhering to the rules of evidence required in judicial proceedings. Any person, including the department, shall have an opportunity to comment on or to present evidence concerning the submitted plan.

L. The conservation district or the water district, as the case may be, shall respond in writing to all public comments whether received at the hearing or otherwise received by a date announced by the director.

M. Within sixty days after the hearing on the first plan required under section 45-576.02, subsection C or the first plan required under section 45-576.02, subsection E and within one hundred twenty days after the hearing on any subsequent plan required under section 45-576.02, subsection C or E, including a revised plan pursuant to subsection R of this section, the director shall issue a decision for each of the active management areas in which a member land or member service area is or may be located, and the active management area in which a water district member land or water district member service area is or may be located, ~~determining~~ AS TO whether or not the plan submitted with respect to an active management area ~~shall be designated as being~~ IS consistent with achieving the management goal of the active management area. THE DIRECTOR SHALL INCLUDE FINDINGS WITH THE DECISION AND A SUMMARY OF ALL PUBLIC COMMENTS RECEIVED IN WRITING AND PUBLIC COMMENTS MADE AT THE PUBLIC HEARING. If the ~~director determines~~ DIRECTOR'S DECISION INCLUDES A DETERMINATION that the plan submitted for an active management area is consistent with achieving the management goal of that active management area, ~~the designation~~ EXCEPT AS PROVIDED IN SUBSECTION S OF THIS SECTION, THE DETERMINATION expires on ~~January 1~~ DECEMBER 31 of the year following the year in which the conservation district or the water district, as the case may be, is required to submit its next plan under section 45-576.02, subsections C and E, OR THE DATE THE DIRECTOR ISSUES A DECISION DETERMINING THAT THE NEXT PLAN IS CONSISTENT WITH ACHIEVING THE MANAGEMENT

GOAL OF THE ACTIVE MANAGEMENT AREA, WHICHEVER OCCURS FIRST. ~~The director shall include findings with the decision and a summary of all public comments received in writing and public comments made at the public hearing.~~

N. The director shall make a determination that the conservation district's plan is consistent with achieving the management goal for each active management area if all of the following have been demonstrated:

1. The conservation district has identified sufficient water supplies to meet its replenishment obligations for current members during the twenty calendar years following the submission of the plan and has identified additional water supplies potentially available for the district's projected groundwater replenishment obligations for the one hundred calendar years following the submission of the plan for current members and potential members based on reasonable projections of real property and service areas that could qualify for membership in the ten years following the submission of the plan.

2. The replenishment reserve target for each active management area was calculated as prescribed in section 48-3772, subsection E, and the district is developing a replenishment reserve in each active management area pursuant to section 48-3772, subsection E.

3. The conservation district has identified sufficient capacity at storage facilities and projects to be used for replenishment purposes during the twenty calendar years following the submission of the plan.

4. The district has made a reasonable estimate of its projected replenishment obligations for the one hundred calendar years following the submission of the ten year plan as required by section 45-576.02, subsection C, paragraph 2, subdivision (b).

O. The director shall issue a decision that the water district's plan is consistent with achieving the management goal of the active management area in which the water district is located if the director finds that the water district has the current capability to meet the current and projected water district groundwater replenishment obligation, as that term is defined and used in title 48, chapter 28, for the five calendar years following the calendar year in which the water district submits its plan and, in addition, the director finds the water district has established an adequate plan to meet the projected water district groundwater replenishment obligation for the twenty calendar years following the calendar year in which the plan was submitted.

P. Unless the conservation district or water district successfully appeals the director's decision pursuant to subsection Q of this section, if the director ~~has made a determination~~ FINDS for one or more active management areas that the conservation district's plan for operation or the water district's plan is not consistent with achieving the management goal of an active management area, the director shall notify the conservation district or water district, as the case may be, of the inconsistency in writing and shall specify how the conservation district's plan for operation or the water

district's plan is inconsistent with achieving the management goal. The conservation district or water district, as the case may be, shall modify its proposed plan and resubmit the plan within sixty days after it has been notified in writing of the director's decision, and the director shall review the plan as provided by section 45-576.02 and this section, except that the director shall only hold a hearing regarding those matters that the conservation district or water district, as the case may be, has modified in its resubmitted plan.

Q. The director's ~~determination~~ DECISION under subsection M or R of this section is subject to rehearing or review and to judicial review as provided in section 45-114, subsection C, but the court shall not issue a temporary restraining order or preliminary injunction to prevent the director from acting under this chapter while the action is pending.

R. If, at any time between the second anniversary and the ~~sixth~~ EIGHTH anniversary of the director's determination of consistency with the management goal, the director ~~determines~~ FINDS that there has been either an unexpected increase in the conservation district's projected groundwater replenishment obligations or an unexpected reduction in water supplies available to meet the conservation district's current obligations such that the conservation district's plan no longer demonstrates consistency with the management goal for one or more active management areas, the director shall require the conservation district to submit a revised plan for operation. The revised plan for operation shall be submitted within ~~two~~ ONE calendar ~~years of~~ YEAR AFTER the date that the director notifies the conservation district of such a ~~determination~~ FINDING, UNLESS THE DIRECTOR EXTENDS THIS TIME FOR GOOD CAUSE. The director shall review, hold a hearing on and make a ~~determination~~ DECISION on the revised plan as provided by this section, except that the director shall only hold a hearing regarding those conditions that have changed.

S. Unless the conservation district successfully appeals the director's ~~determination~~ DECISION pursuant to subsection Q of this section, if the ~~director has made a determination~~ DIRECTOR'S DECISION INCLUDES A FINDING for one or more active management areas that the conservation district's revised plan for operation is not consistent with achieving the management goal of that active management area pursuant to this section and the conservation district is unable to satisfy the director's concerns within sixty days after the director has notified the conservation district of the ~~determination~~ DECISION, the DETERMINATION THAT THE district's plan IS CONSISTENT WITH THE MANAGEMENT GOAL OF THE ACTIVE MANAGEMENT AREA shall expire.

Sec. 3. Section 48-3712, Arizona Revised Statutes, is amended to read:

48-3712. Powers and duties of the board

A. The board shall:

1. Manage and conduct the affairs and business of the district.

2. Make and execute all necessary contracts and other instruments which shall be signed by the president or, in the president's absence, by another member of the board designated for that purpose, and attested by the secretary.

3. Establish bylaws and rules for the governing of the board and for the functions of the district.

4. Perform all acts necessary to carry out the purposes of this chapter.

5. Except as provided in subsection C of this section and in sections 48-3713.03, 48-3715.01, 48-3715.03, 48-3715.05, 48-3772 and 48-3773, require that all funds received on behalf of the district shall be deposited, pursuant to sections 35-146 and 35-147, in a special fund established by the state to be expended at the direction of the board to effectuate the provisions and purposes of this chapter. On notice from the board, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

6. Adopt an ordinance or ordinances to establish a revenue bonding program that pledges to bond repayment any monies received or to be received by the district from any source except ad valorem tax revenues~~, replenishment assessment revenues and replenishment tax generated under article 4 of this chapter~~.

7. Employ such agents, engineers, attorneys and employees not readily available from existing state agencies.

B. The board may:

1. Accept grants, gifts or donations of money or other property from any source which may be expended for any purpose consistent with the provisions of this chapter.

2. Establish a revolving fund for the purpose of defraying the costs and expenses of the district.

Sec. 4. Section 48-3713, Arizona Revised Statutes, is amended to read:

48-3713. <u>Powers of district</u>

A. The district, acting through its board, shall:

1. Enter into a contract or contracts with the secretary to accomplish the purposes of this chapter.

2. Provide for the repayment of construction costs, interest and annual operation, maintenance and replacement costs allocated to the district and payment of administrative costs and expenses of the district.

3. Levy an annual tax to defray district costs and expenses and to effect repayment of a portion of the district's obligation to the United States. Such tax levy shall not exceed ten cents per each one hundred dollars of assessed valuation of the taxable property within the district.

4. Establish and cause to be collected charges for water consistent with federal reclamation law and contracts entered into between the district and the secretary pursuant to this chapter.

5. Cooperate and contract with the secretary to carry out the provisions of the reclamation act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, including the Colorado river basin project act (82 Stat. 885).

6. Establish and maintain reserve accounts in amounts which may be required by any contract between the district and the secretary and in such additional amounts as may be deemed necessary to accomplish the purposes of this chapter.

7. Coordinate and cooperate with the Arizona water banking authority.

B. The district, acting through its board, may:

1. Contract with the United States to be the operating agent of the central Arizona project and to maintain all or portions of the project and subcontract with others for the operation or maintenance of portions of the project.

2. Acquire in any lawful manner real and personal property of every kind necessary or convenient for the uses and purposes of the district.

3. Acquire electricity or other forms of energy necessary for the operation of the central Arizona project. Effective retroactively to taxable years beginning from and after December 31, 1984, the acquisition of electricity or other forms of energy by the district for the purposes of pumping central Arizona project water shall not be subject to any state or municipal transaction privilege or use tax.

4. Contract for or perform feasibility studies of water storage, storage facilities and recovery wells.

5. Acquire, develop, construct, operate, maintain and acquire permits for water storage, storage facilities and recovery wells pursuant to title 45, chapter 3.1 using surplus central Arizona project water.

6. Enter into contracts to acquire, permit, develop, construct, operate and maintain water storage, storage facilities and recovery wells with any person pursuant to title 45, chapter 3.1. Such projects may utilize water, including central Arizona project water, which such persons have the right to store pursuant to title 45, chapter 3.1.

7. Plan, analyze, propose, apply for, construct, operate, maintain and dismantle state demonstration projects for water storage and recovery under title 45, chapter 3.1, article 6.

8. Acquire real property for state demonstration projects for water storage and recovery under title 45, chapter 3.1 by purchase, lease, donation, dedication, exchange or other lawful means in areas suitable for demonstration projects for water storage and recovery of state water in counties in which the district has water transportation facilities.

9. Advance monies necessary for the installation, construction, repair, maintenance or replacement of capital improvements related to any water storage, storage facilities and recovery wells or any other replenishment activities of the district undertaken pursuant to article 4 of this chapter. Monies advanced under this paragraph bear interest as

determined by the board. Repayment of the advances shall be amortized over the useful life of the capital improvements, as determined by the board. Utilization of excess capacity in a state demonstration project for replenishment purposes pursuant to section 48-3772, subsection B, paragraph 8 does not constitute the advancement of monies under this paragraph. MONIES ADVANCED UNDER THIS PARAGRAPH SHALL NOT BE USED TO PAY THE PRINCIPAL OF, OR INTEREST OR PREMIUM ON, REVENUE BONDS ISSUED PURSUANT TO ARTICLE 3 OF THIS CHAPTER TO ACQUIRE, LEASE OR EXCHANGE WATER OR WATER RIGHTS AND DEVELOP INFRASTRUCTURE NECESSARY FOR THE DISTRICT TO PERFORM ITS REPLENISHMENT OBLIGATIONS.

10. Advance monies for the payment of the operation and administrative costs and expenses of the district relating to performance of the groundwater replenishment obligations under article 4 of this chapter, including replenishment reserve activities and reasonable reserves. Monies advanced under this paragraph shall bear interest as determined by the board. Repayment of the advances may be amortized over a reasonable period, as determined by the board. MONIES ADVANCED UNDER THIS PARAGRAPH SHALL NOT BE USED TO PAY THE PRINCIPAL OF, OR INTEREST OR PREMIUM ON, REVENUE BONDS ISSUED PURSUANT TO ARTICLE 3 OF THIS CHAPTER TO ACQUIRE, LEASE OR EXCHANGE WATER OR WATER RIGHTS AND DEVELOP INFRASTRUCTURE NECESSARY FOR THE DISTRICT TO PERFORM ITS REPLENISHMENT OBLIGATIONS.

11. Assign to the account of the district at fair value long-term storage credits, as defined in section 45-802.01, held by the district.

12. Provide technical and operational support to the Arizona water banking authority and shall be reimbursed by the Arizona water banking authority for providing that support.

13. Appoint certain employees of the district as peace officers only for purposes of providing law enforcement on property which is under the control of the district. The district shall not have any more than ten employees designated as peace officers at any one time.

14. Except for electric capacity and energy allocated to the Arizona power authority under the Hoover power plant act of 1984 (P.L. 98-381; 98 Stat. 1333), sell, resell, deliver or distribute electricity or other forms of energy acquired by the district for purposes of operating the central Arizona project but not needed by the district for such purposes, except that the district may not sell, resell, deliver or distribute electricity to a retail electric customer as defined in section 30-801.

C. The authority granted under title 45, chapter 3.1, article 6 does not authorize the district to withdraw and use groundwater that exists naturally in the basin in which the stored water is located. The authority provided in subsection B, paragraph 7 of this section is in addition to and distinct from any authority granted to the district by subsection B, paragraphs 5 and 6 of this section.

D. The functions of the district under subsection B, paragraph 5 of this section may be performed on behalf of the district by other persons under contract with the district.

E. The district may enter into and carry out subcontracts with water users for the delivery of water through the facilities of the central Arizona project. Such contracts as may be entered into between the district and the secretary and between the district and water users shall be subject to the provisions of the Colorado river basin project act (P.L. 90-537; 82 Stat. 885). Before entering into such contracts the district shall determine that the proposed contract or proposed amendment, and all related exhibits and agreements, have been submitted to the director of water resources as required by section 45-107, subsection D.

F. The district may in conjunction with any other marketing entity or entities be a marketing entity under section 107 of the Hoover power plant act of 1984 (P.L. 98-381; 98 Stat. 1333) solely for the limited purposes of establishing and collecting the additional rate components authorized by that act and may enter into contracts for that purpose. This subsection does not limit the authority of the district under subsection B, paragraph 3 of this section and does not prohibit the United States western area power administration or the Arizona power authority from making incidental disposition of power acquired by the district for purposes of operating the central Arizona project but not needed by the district for such purposes.

G. Persons who are appointed as peace officers by the district pursuant to subsection B of this section shall provide law enforcement on the property which is under the control of the district. District peace officers shall not preempt the authority and jurisdiction of other police agencies of this state or its political subdivisions. A district peace officer shall notify appropriate agencies of this state and its political subdivisions after making a felony arrest or beginning a felony investigation within the jurisdiction of that agency. District peace officers shall have at least those qualifications prescribed by section 41-1822 and are not eligible to participate in the public safety personnel retirement system. The district is not eligible to receive funds from the peace officers' training fund specified in section 41-1825. The district shall reimburse the Arizona peace officer standards and training board for all training expenses incurred by the board for the district and all audit expenses incurred by the board in reviewing compliance by the district with peace officer standards and law enforcement standards established by the board.

Sec. 5. Section 48-3751, Arizona Revised Statutes, is amended to read:

48-3751. <u>Ordinances; revenue bonds</u>

A. An ordinance adopted pursuant to section 48-3712 shall set forth a plan for the district to borrow money and issue its negotiable revenue bonds. The ordinance may determine the maximum amount of bonds, the maximum rate of interest and the time of payment of the bonds.

B. The principal of and interest and premiums, if any, on bonds are payable solely from revenues of the district as may be pledged by the district including monies received from the sales of services or from contracts of every nature. ~~A bond shall not be issued and interest shall not be paid pursuant to this section if taxes or assessments on or against the real property or other property may be levied.~~ AD VALOREM PROPERTY TAXES SHALL NOT BE PLEDGED TO, LEVIED FOR OR USED TO PAY PRINCIPAL, INTEREST OR PREMIUMS ON ANY BONDS ISSUED UNDER THIS ARTICLE. Payment is not enforceable out of any monies other than the revenues pledged to the payment. No referendum or election is required for the issuance of bonds authorized in this article.

C. Bonds may bear interest at rates that may fluctuate below a maximum interest rate established in the ordinance. The board may designate a remarketing agent to set and reset interest rates in accordance with the ordinance or any authorizing resolution or trust indenture adopted or entered into by the district in accordance with the ordinance. The district may contract for and purchase credit enhancement in the form of letters of credit, surety bonds, bond insurance policies, bond purchase agreements and other contractual arrangements providing either credit for the bonds, liquidity to the bondholders or credit facilities obtained in lieu of reserves.

D. Subject to the limitations of this article, the district may do all things, enter into all contracts and dispose of bond proceeds in the manner deemed necessary by the board to effectuate the purpose for which the bonds are issued and secure payment of the principal and interest on the bonds.

Sec. 6. Section 48-3762, Arizona Revised Statutes, is amended to read:

48-3762. Limitation on amount, rates, fees and charges

A. The district shall not issue any bonds under ~~the provisions of~~ this article that will cause the aggregate principal amount of bonds issued and outstanding under this article to exceed ~~two hundred fifty~~ FIVE HUNDRED million dollars.

B. Bonds issued before September 21, 1991 are excluded for the purposes of determining the aggregate principal amount.

C. Notwithstanding any other law, the district may establish and collect a fee for water for bonding purposes in lieu of or in addition to any rate or charge made pursuant to law or by contract.

Sec. 7. Section 48-3772, Arizona Revised Statutes, is amended to read:

48-3772. Duties and powers of district regarding replenishment

A. The district shall:

1. Establish annually the costs and expenses to replenish groundwater pursuant to this article with respect to all parcels of member lands and all member service areas located in each active management area, including capital expenses, DEBT SERVICE EXPENSES, the operation, maintenance, replacement and administrative costs and expenses of the district, replenishment reserve costs and expenses as provided in subsection E of this

1 section and reasonable reserves. Separate calculations of costs and expenses
2 shall be made for each active management area in which member lands or member
3 service areas are located and for each membership category. Costs and
4 expenses attributed by the district to contract replenishment obligations
5 shall not be included in these calculations.
6 2. Provide for the payment of all costs and expenses to replenish
7 groundwater pursuant to this chapter and the payment of operation,
8 maintenance, replacement and administrative costs and expenses AND DEBT
9 SERVICE EXPENSES of the district.
10 3. Levy an annual replenishment assessment against each parcel of
11 member land pursuant to section 48-3778 and an annual replenishment tax
12 against each municipal provider that has a member service area pursuant to
13 section 48-3781 to pay the district's costs and expenses as established
14 pursuant to paragraph 1 of this subsection.
15 4. Levy a contract replenishment tax against municipal providers that
16 are parties to contracts authorized under subsection B, paragraph 9 of this
17 section to pay the district's costs and expenses to replenish groundwater
18 based on contract replenishment obligations.
19 5. Establish and maintain reserve accounts in amounts as may be deemed
20 necessary to perform the district's obligations under this article.
21 6. Fulfill all obligations under resolutions adopted pursuant to
22 subsection B, paragraph 10 of this section.
23 7. Levy an activation fee as follows:
24 (a) For subdivisions within member lands and member service areas that
25 are enrolled before May 6, 2004 and that had not been issued a public report
26 before ~~the effective date of this amendment to this section~~ AUGUST 12, 2005,
27 the district shall levy a one-time activation fee against each housing unit
28 to be constructed within the subdivision.
29 (b) For subdivisions within member lands and member service areas that
30 are enrolled on or after May 6, 2004, the district shall levy a one-time
31 activation fee against each housing unit to be constructed within the
32 subdivision.
33 (c) The activation fee shall be paid to the district before issuance
34 of a public report for each real estate subdivision identified in subdivision
35 (a) or (b) of this paragraph, as provided in section 45-576, subsection C.
36 (d) The activation fee shall be established annually by the district.
37 Revenues from the activation fee together with revenues from other sources
38 that are legally available to the district for those uses shall be used by
39 the district to acquire, LEASE OR EXCHANGE WATER OR water rights and develop
40 infrastructure necessary for the district to perform its replenishment
41 obligations.
42 8. FOR ANY YEAR, SET ALL OF ITS RATES AND CHARGES ASSOCIATED WITH THE
43 ACQUISITION, LEASE OR EXCHANGE OF WATER OR WATER RIGHTS AND DEVELOPMENT OF
44 INFRASTRUCTURE NECESSARY FOR THE DISTRICT TO PERFORM ITS REPLENISHMENT
45 OBLIGATIONS, OTHER THAN THE ANNUAL MEMBERSHIP DUES ESTABLISHED PURSUANT TO

SECTION 48-3779, SO THAT THE TOTAL PROJECTED REVENUES FROM REVENUE SOURCES OTHER THAN THE ANNUAL MEMBERSHIP DUES, THAT ARE LEGALLY AVAILABLE TO THE DISTRICT IN THAT YEAR TO PAY COSTS ASSOCIATED WITH THE ACQUISITION, LEASE OR EXCHANGE OF WATER OR WATER RIGHTS AND DEVELOPMENT OF INFRASTRUCTURE NECESSARY FOR THE DISTRICT TO PERFORM ITS REPLENISHMENT OBLIGATIONS, SHALL BE AT LEAST THREE TIMES THE TOTAL PROJECTED REVENUES FROM THE ANNUAL MEMBERSHIP DUES IN THAT YEAR. FOR THE PURPOSES OF THIS PARAGRAPH, COSTS ASSOCIATED WITH THE ACQUISITION, LEASE OR EXCHANGE OF WATER OR WATER RIGHTS DO NOT INCLUDE THE ANNUAL COSTS ASSOCIATED WITH DELIVERY OF WATER FOR REPLENISHMENT PURPOSES.

B. The district may:

1. Acquire, develop, construct, operate, maintain, replace and acquire permits for water storage, storage facilities and recovery wells for replenishment purposes.

2. Acquire, transport, hold, exchange, own, lease, store or replenish water, except groundwater withdrawn from an active management area, subject to the provisions of title 45, for the benefit of member lands and member service areas.

3. Acquire, hold, exchange, own, lease, retire or dispose of water rights for the benefit of member lands and member service areas.

4. Require municipal providers to provide such information, in such form and within the time limits prescribed by the district, as may be necessary to carry out the purpose of this chapter.

5. Levy and collect assessments, fees, charges, taxes and other revenues as are provided in this chapter for the financing of replenishment activities.

6. Contract for or perform feasibility studies of water storage, storage facilities and recovery wells for replenishment purposes.

7. Acquire real and personal property for water storage, storage facilities and recovery wells for replenishment purposes by purchase, lease, donation, dedication, exchange or other lawful means.

8. Use any facilities and any excess storage capacity of any state demonstration projects undertaken pursuant to title 45, chapter 3.1 for water storage for replenishment purposes.

9. Subject to subsection G of this section, contract with any municipal provider having a member service area to replenish groundwater on behalf of the municipal provider and with respect to the member service area in an amount in excess of the sum of the service area replenishment obligations applicable to the member service area for all years in which the district has not completed the replenishment of the groundwater replenishment obligation for the member service area.

10. Adopt resolutions granting water availability status to a member service area of a city, town or private water company and committing to replenish a specified average annual volume of water in a location where the city, town or private water company may physically access the water for service to its customers, if all of the following apply:

(a) The district has reviewed its requirements for transportation of central Arizona project water, its contracts, subcontracts, letter agreements, excess water contracts, and other contractual obligations and its member service area and member land requirements and has determined that the district can meet those obligations and that capacity remains in the central Arizona project to meet the obligations undertaken through the resolution.

(b) The resolution acknowledges that the commitment to replenish the specified average annual volume of water in the location cited in the resolution shall be a permanent obligation of the district, unless one of the following applies:

(i) A permanent substitute supply of water is found for the city, town or private water company and the substitution is approved by the director of water resources, thus terminating the water availability status of the member service area.

(ii) The requirements of section 45-576.07, subsection A are not met, and thus the director of water resources does not issue an order granting or maintaining the city, town or private water company as having an assured water supply based in whole or in part on section 45-576.07. If no order is issued within two years of the district adopting the resolution, the resolution may be repealed, and the district shall be relieved of all obligations under the resolution.

(c) The average annual volume of water specified in the resolution, when added to the average annual volume of water specified in all other resolutions adopted pursuant to this paragraph, does not exceed twenty thousand acre-feet.

(d) The district has entered into an agreement with the city, town or private water company under which the city, town or private water company will hold for the district's future use, and provide to the district when needed, sufficient water to meet the obligations undertaken by the district through the resolution.

(e) The district determines that the obligations undertaken by the district through the resolution will not increase annual replenishment assessment rates or costs to central Arizona project contract and subcontract holders and its member service areas and member lands.

(f) The director of water resources has found, pursuant to section 45-576.07, subsection H, that the district has the capability to grant water availability status to member service areas.

11. Provide in resolutions adopted pursuant to paragraph 10 of this subsection that the district may fulfill its obligations under the resolution in any year by directly delivering to the city, town or private water company the water that otherwise would have been replenished pursuant to the resolution, if all of the following apply:

(a) The district has reviewed its requirements for transportation of central Arizona project water, its contracts, subcontracts, letter agreements, excess water contracts, and other contractual obligations, its member service area and member land requirements and has determined that the district can meet those obligations and that capacity remains in the central Arizona project to make direct deliveries pursuant to this paragraph.

(b) The district determines that the delivery will not increase annual replenishment assessment rates or costs to central Arizona project contract and subcontract holders, its member service area and member lands.

12. Enter into agreements with a city, town or private water company that will have water made available to it through a resolution adopted pursuant to paragraph 10 of this subsection and under which the city, town or private water company compensates the district for the costs and fair value of the water supply provided by the district.

13. ISSUE REVENUE BONDS PURSUANT TO ARTICLE 3 OF THIS CHAPTER TO FUND THE COSTS AND EXPENSES OF THE DISTRICT FOR THE ACQUISITION, LEASE OR EXCHANGE OF WATER OR WATER RIGHTS AND THE DEVELOPMENT OF INFRASTRUCTURE NECESSARY FOR THE DISTRICT TO PERFORM ITS REPLENISHMENT OBLIGATIONS SUBJECT TO THE FOLLOWING:

(a) THE PRINCIPAL OF, INTEREST AND PREMIUMS, IF ANY, ON REVENUE BONDS ISSUED PURSUANT TO ARTICLE 3 OF THIS CHAPTER TO ACQUIRE, LEASE OR EXCHANGE WATER OR WATER RIGHTS AND DEVELOP INFRASTRUCTURE NECESSARY FOR THE DISTRICT TO PERFORM ITS REPLENISHMENT OBLIGATIONS ARE NOT PAYABLE FROM ANY REVENUES OF THE DISTRICT OTHER THAN REVENUES GENERATED OR COLLECTED PURSUANT TO THIS ARTICLE THAT ARE LEGALLY AVAILABLE TO THE DISTRICT FOR THOSE PURPOSES AND REVENUES FROM THE INVESTMENT OF THE PROCEEDS OF THE BONDS.

(b) THE DISTRICT MAY NOT USE THE PROCEEDS OF THE BONDS TO ACQUIRE OR LEASE:

(i) GROUNDWATER, AS DEFINED IN SECTION 45-101, EXCEPT AS EXPRESSLY AUTHORIZED IN SECTIONS 45-547, 45-552, 45-553 AND 45-554.

(ii) SURFACE WATER, AS DEFINED IN SECTION 45-101, THAT IS THE SUBJECT OF A GENERAL ADJUDICATION PURSUANT TO TITLE 45, CHAPTER 1, ARTICLE 9.

(c) NOTHING IN SUBDIVISION (b) OF THIS PARAGRAPH PROHIBITS THE DISTRICT FROM ACQUIRING OR LEASING CENTRAL ARIZONA PROJECT WATER.

14. EXCEPT AS PROVIDED IN SECTION 48-3780.01, SUBSECTION B, IN ADDITION TO ANY OTHER ASSESSMENTS, FEES, CHARGES OR TAXES LEVIED AND COLLECTED UNDER THIS CHAPTER, OR UNDER ANY DECLARATION, CONTRACT OR AGREEMENT ENTERED INTO UNDER THIS CHAPTER, CHARGE ANNUAL DUES FOR MEMBERSHIP PURSUANT TO SECTION 48-3779 AGAINST EACH PARCEL OF MEMBER LAND AND EACH MUNICIPAL PROVIDER THAT HAS A MEMBER SERVICE AREA.

C. The functions of the district under subsection B, paragraph 1 of this section may be performed on behalf of the district by other persons under contract with the district.

D. ~~For purposes of determining the annual costs and expenses of the district under subsection A, paragraph 1 of this section, the district shall amortize capital costs and expenses, including interest as determined by the district, over the useful life of the capital improvements, as determined by the district.~~ The capital costs of the facilities of any state demonstration projects used by the district pursuant to subsection B, paragraph 8 of this section shall not be included in the capital costs and expenses ~~amortized~~ ESTABLISHED by the district under ~~this~~ subsection A, PARAGRAPH 1 OF THIS SECTION.

E. The district shall establish and maintain a replenishment reserve as follows:

1. The district shall calculate a reserve target for each of the three active management areas within the district and shall identify the reserve target in the plan of operation prepared pursuant to section 45-576.02. The reserve target for each active management area shall be calculated as follows:

(a) Establish the projected one hundred year replenishment obligation for each active management area. For the purposes of this subdivision, each active management area's projected one hundred year replenishment obligation does not include replenishment obligations under resolutions adopted pursuant to subsection B, paragraph 10 of this section or replenishment obligations for category 2 member lands.

(b) Subtract from the active management area's projected one hundred year replenishment obligation the sum of the following volumes of water derived from sources identified in the plan as water that the district plans to use to meet its replenishment obligations for that active management area:

(i) The annual volume of each nondeclining, long-term municipal and industrial subcontract for central Arizona project water multiplied by one hundred.

(ii) The annual volume of water under leases or contracts that can be made physically and legally available to the district consistent with the rules adopted pursuant to section 45-576, subsection H, multiplied by the number of years, not to exceed one hundred, in which the water is to be made available to the district. The water need not be continuously available to be included in this item. A lease or contract shall not be considered under this item if the water to be made available under the lease or contract is for a term of less than twenty years.

(iii) The total volume of groundwater that the district plans to transport to the active management area during the next one hundred years as allowed by title 45, chapter 2, article 8.1.

(iv) The total volume of all sources of water not identified in items (i), (ii) or (iii) of this subdivision that will not be held by the district under a lease or contract. Volumes to be included under this item must be consistent with the rules adopted by the director pursuant to section 45-576, subsection H.

(c) Multiply the result from subdivision (b) of this paragraph by twenty per cent. The result is the reserve target for the active management area.

2. The reserve target for an active management area may be adjusted by the district, subject to the approval of the director of water resources, based on changes in either of the following:

(a) The active management area's projected one hundred year replenishment obligation.

(b) The volumes of water identified in the plan of operation prepared pursuant to section 45-576.02 as water that the district plans to use to meet its replenishment obligations for that active management area.

3. The district shall include a replenishment reserve charge in the annual replenishment assessment levied against all parcels of category 1 member land as provided in section 48-3774.01 and in the annual replenishment tax levied against all municipal providers that have member service areas as provided in section 48-3780.01. The replenishment reserve charge for each active management area is established annually by the district based on the reserve target for that active management area.

4. The district shall levy a replenishment reserve fee against category 1 member lands pursuant to section 48-3774.01 and against member service areas pursuant to section 48-3780.01. For category 1 member lands the fee is equal to twice the applicable replenishment reserve charge multiplied by the total projected average annual replenishment obligation for the member lands as reported by the director of water resources pursuant to section 45-578, subsection F. For member service areas the fee is equal to twice the applicable replenishment reserve charge multiplied by the excess groundwater increment. With the approval of the district and the director of water resources, long-term storage credits as defined in section 45-802.01 may be assigned to the district's replenishment reserve subaccount in lieu of paying the replenishment reserve fee.

5. The district shall use replenishment reserve charges and replenishment reserve fees collected within each active management area together with all interest earned on the charges and fees to store water in that active management area in advance of groundwater replenishment obligations for the purpose of developing long-term storage credits as defined in section 45-802.01 that shall be credited to the replenishment reserve subaccount for that active management area as provided in section 45-859.01.

6. Beginning on January 1, 2030 or earlier, on approval of the director of water resources pursuant to section 45-859.01, subsection K, the district may transfer credits from a replenishment reserve subaccount to a conservation district account as provided in section 45-859.01 to satisfy its groundwater replenishment obligations.

7. If the district transfers credits from the replenishment reserve subaccount for an active management area pursuant to section 45-859.01, subsection E, the district shall include in the annual replenishment assessment levied against all parcels of category 1 member land in that active management area and, except as provided in section 48-3780.01, subsection B, in the annual replenishment tax levied against all municipal providers that have member service areas in that active management area a reserve replacement component to fund the replacement of the transferred credits. The district shall use all monies from the reserve replacement component collected within an active management area together with all interest earned on the monies to develop long-term storage credits as defined in section 45-802.01 within that active management area to be credited to the replenishment reserve subaccount for that active management area as provided in section 45-859.01.

8. For the purposes of establishing and maintaining the replenishment reserve, the district shall have access to excess central Arizona project water equivalent to but no more than the access the Arizona water banking authority has for the purposes specified in section 45-2401, subsection H, paragraph 2.

F. Groundwater replenished by the district pursuant to a contract to replenish groundwater under subsection B, paragraph 9 of this section shall not be credited to a replenishment reserve subaccount established under section 45-859.01.

G. The district shall not enter into a contract authorized under subsection B, paragraph 9 of this section unless the district has determined that the contract will not adversely affect the district's ability to fulfill its obligations under this chapter. For each contract entered into under subsection B, paragraph 9 of this section, the district shall perform its contract replenishment obligations in the active management area in which the service area of the municipal provider that is the party to the contract is located.

H. If the district replenishes groundwater on behalf of a municipal provider pursuant to a contract to replenish groundwater under subsection B, paragraph 9 of this section, the amount of groundwater so replenished shall be a replenishment credit to the municipal provider that may be applied by the municipal provider on notice to the district to reduce the service area replenishment obligations applicable to the municipal provider.

I. In the Phoenix active management area, the district, to the extent reasonably feasible, shall replenish groundwater in the east portion of the active management area and in the west portion of the active management area in the approximate proportion that the groundwater replenishment obligation attributable in a particular year to member lands and member service areas located in the east portion of the active management area bears to the groundwater replenishment obligation attributable in that year to member lands and member service areas located in the west portion of the active

management area. For the purposes of this subsection, the boundary between the east Salt river valley subbasin and the west Salt river valley subbasin is the boundary between the east and west portions of the active management area.

J. The costs and expenses charged by the district to an active management area water district established under chapter 28 of this title for delivery of surplus central Arizona project water to such active management area water district for replenishment purposes shall not exceed the costs and expenses for delivery of such water that are or would be included by the district in the costs and expenses of replenishment for member lands and member service areas within the active management area in which such active management area water district is situated.

Sec. 8. Section 48-3774, Arizona Revised Statutes, is amended to read:

48-3774. Qualification as member land

A. Real property qualifies as member land only if all of the following apply:

1. The real property is located in an active management area in which a part of the central Arizona project aqueduct is located.

2. The real property is not in a member service area or in a groundwater replenishment district under chapter 27 of this title.

3. The real property is not a water district member land or a parcel of water district member land, or in a water district member service area established under chapter 28 of this title.

4. The conditions stated in section 45-576.01, subsection B, paragraphs 2 and 3 are satisfied with respect to the district at the time of the qualification.

5. The owner of the real property, or other person or entity, such as a property owners' or homeowners' association, if the person or entity has proper authority, records a declaration THAT HAS BEEN APPROVED BY THE DISTRICT against the real property in the official records of the county where the real property is located that:

(a) Contains the legal description of the real property.

(b) Declares the intent of the owner that the real property qualify as member land under this chapter.

(c) Declares that, in order to permit the delivery of excess groundwater to the real property, each parcel of member land thereafter established at the real property is subject to a parcel replenishment obligation and to a replenishment assessment to be determined by the district.

(d) Declares that qualifying as member land and subjecting the real property to the parcel replenishment obligation and the replenishment assessment directly benefits the real property by increasing the potential of the property to qualify for a certificate of assured water supply issued by the department of water resources pursuant to title 45, chapter 2, article 9, thereby allowing the development, use and enjoyment of the real property.

(e) Contains a covenant that is binding against the real property and each parcel of member land thereafter established at the real property to pay to the district a replenishment assessment based on the parcel replenishment obligation in an amount determined by the district pursuant to section 48-3772, subsection A.

(f) Declares that the district may impose a lien on the real property and each parcel of member land thereafter established at the real property to secure payment of the replenishment assessment and any applicable replenishment reserve fee.

(g) Declares that the covenants, conditions and restrictions contained in the declaration run with the land and bind all successors and assigns of the owner.

B. The declaration may contain covenants, conditions and restrictions in addition to those prescribed by this section. The declaration may be an amendment or supplement to covenants, conditions and restrictions recorded against developed or undeveloped land.

C. Notwithstanding subsection A of this section, no real property qualifies as member land unless the municipal provider that will provide water to the real property that is subject to the declaration records in the official records of the county where the real property is located an ~~instrument~~ AGREEMENT BETWEEN THE DISTRICT AND THE MUNICIPAL PROVIDER that contains both of the following:

1. The legal description of the real property and the tax parcel numbers for the real property.

2. An agreement by the municipal provider to submit to the district by March 31 of each year after the recordation of the instrument the information prescribed by section 48-3775, subsection A and such other information as the district may reasonably request.

Sec. 9. Title 48, chapter 22, article 4, Arizona Revised Statutes, is amended by adding section 48-3779, to read:

48-3779. Annual membership dues

A. ON OR BEFORE THE THIRD MONDAY OF AUGUST OF EACH YEAR BEGINNING IN 2011, THE DISTRICT MAY CHARGE ANNUAL MEMBERSHIP DUES ON ALL PARCELS OF MEMBER LANDS AND ON ALL MUNICIPAL PROVIDERS HAVING A MEMBER SERVICE AREA.

B. THE ANNUAL MEMBERSHIP DUES SHALL BE ESTABLISHED ANNUALLY BY THE DISTRICT. THE DISTRICT SHALL USE REVENUES FROM THE ANNUAL MEMBERSHIP DUES, TOGETHER WITH REVENUES FROM OTHER REVENUE SOURCES THAT ARE LEGALLY AVAILABLE TO THE DISTRICT FOR THOSE USES, SOLELY TO PAY COSTS ASSOCIATED WITH THE ACQUISITION, LEASE OR EXCHANGE OF WATER OR WATER RIGHTS AND DEVELOPMENT OF INFRASTRUCTURE NECESSARY FOR THE DISTRICT TO PERFORM ITS REPLENISHMENT OBLIGATIONS, INCLUDING THE PAYMENT OF DEBT SERVICE EXPENSES, AND NECESSARY RESERVES AND COVERAGE REQUIREMENTS, ON BONDS ISSUED FOR REPLENISHMENT PURPOSES.

C. FOR ANY YEAR IN WHICH THE DISTRICT HAS, OR EXPECTS TO HAVE, ANY REVENUE BONDS OUTSTANDING THAT WERE ISSUED FOR REPLENISHMENT PURPOSES PURSUANT TO SECTION 48-3772, SUBSECTION B, PARAGRAPH 13, THE ANNUAL MEMBERSHIP DUES SHALL BE ESTABLISHED IN AN AMOUNT DETERMINED BY THE DISTRICT TO BE SUFFICIENT TO PROVIDE, WITH OTHER REVENUES LEGALLY AVAILABLE TO THE DISTRICT FOR THOSE PURPOSES, AND TAKING INTO ACCOUNT THE REQUIREMENTS OF SECTION 48-3772, SUBSECTION A, PARAGRAPH 8, FOR THE PAYMENT OF ALL DEBT SERVICE EXPENSES, INCLUDING NECESSARY RESERVES AND COVERAGE REQUIREMENTS WITH RESPECT TO THE BONDS.

D. WHEN THE DISTRICT HAS DETERMINED THE AMOUNT OF REVENUES TO BE RAISED THROUGH THE ANNUAL MEMBERSHIP DUES, THE DISTRICT SHALL ALLOCATE THE AMOUNT TO BE RAISED BETWEEN MEMBER LANDS AND MEMBER SERVICE AREAS PRORATED ON THE BASIS OF THE FOLLOWING TWO VOLUMES:

1. TOTAL CURRENT AND PROJECTED ANNUAL REPLENISHMENT OBLIGATION OF ALL MEMBER LANDS AS IDENTIFIED IN THE MOST RECENT PLAN OF OPERATION DETERMINED BY THE DIRECTOR OF WATER RESOURCES TO BE CONSISTENT WITH ACHIEVING THE MANAGEMENT GOAL FOR THE ACTIVE MANAGEMENT AREAS PURSUANT TO SECTION 45-576.03, SUBSECTION M, O OR R.

2. TOTAL PLANNED ANNUAL SERVICE AREA REPLENISHMENT OBLIGATIONS FOR ALL MEMBER SERVICE AREAS. THE PLANNED ANNUAL SERVICE AREA REPLENISHMENT OBLIGATION FOR A MEMBER SERVICE AREA IS THE LESSER OF:

(a) THE ANNUAL SERVICE AREA REPLENISHMENT OBLIGATION, AS DETERMINED BY THE DISTRICT, ASSOCIATED WITH THE CURRENT AND COMMITTED WATER DEMANDS PROJECTED WITHIN THE MEMBER SERVICE AREA AS OF DECEMBER 31 OF THE YEAR FOLLOWING THE YEAR IN WHICH THE DISTRICT IS REQUIRED TO SUBMIT ITS NEXT PLAN UNDER SECTION 45-576.02, SUBSECTION C.

(b) THE MAXIMUM AMOUNT OF EXCESS GROUNDWATER THAT MAY BE REPORTED TO THE DISTRICT AS DELIVERED BY THE MUNICIPAL PROVIDER WITHIN THE MEMBER SERVICE AREA IN ANY YEAR AS ESTABLISHED IN AN AGREEMENT EXECUTED BETWEEN THE MUNICIPAL PROVIDER AND THE DISTRICT.

E. THE TOTAL AMOUNT ALLOCATED TO MEMBER LANDS IN ANY YEAR, AS CALCULATED PURSUANT TO SUBSECTION D OF THIS SECTION, SHALL BE PRORATED AMONG THE PHOENIX, PINAL AND TUCSON ACTIVE MANAGEMENT AREAS BASED ON THE CURRENT AND PROJECTED ANNUAL REPLENISHMENT OBLIGATION OF ALL MEMBER LANDS IN THAT ACTIVE MANAGEMENT AREA AS IDENTIFIED IN THE MOST RECENT PLAN OF OPERATION DETERMINED BY THE DIRECTOR OF WATER RESOURCES TO BE CONSISTENT WITH ACHIEVING THE MANAGEMENT GOAL FOR THE ACTIVE MANAGEMENT AREA PURSUANT TO SECTION 45-576.03, SUBSECTION M, O OR R. THE PRORATED AMOUNT WITHIN EACH ACTIVE MANAGEMENT AREA SHALL BE FURTHER PRORATED AMONG ALL PARCELS OF MEMBER LAND LOCATED WITHIN THAT ACTIVE MANAGEMENT AREA BASED ON A UNIFORM FEE PER LOT LEVIED AGAINST THE TOTAL NUMBER OF RESIDENTIAL, COMMERCIAL AND COMMON AREA LOTS INCLUDED, OR INTENDED TO BE INCLUDED, IN EACH PARCEL OF MEMBER LAND. THESE DUES ARE A LIEN ON EACH PARCEL OF MEMBER LAND AND SHALL BE CERTIFIED, COLLECTED AND ENFORCED WITH RESPECT TO MEMBER LAND IN THE SAME MANNER AS THE ANNUAL ASSESSMENT PURSUANT TO SECTION 48-3778. HOWEVER, ANY PARCEL OF MEMBER

LAND THAT IS INCLUDED IN THE SERVICE AREA OF A MUNICIPAL PROVIDER THAT HAS BEEN DESIGNATED AS HAVING AN ASSURED WATER SUPPLY UNDER SECTION 45-576 IS NOT SUBJECT TO THE ANNUAL MEMBERSHIP DUES.

F. THE TOTAL AMOUNT ALLOCATED TO MEMBER SERVICE AREAS IN ANY YEAR, AS CALCULATED PURSUANT TO SUBSECTION D OF THIS SECTION, SHALL BE PRORATED AMONG ALL MEMBER SERVICE AREAS BASED ON A UNIFORM FEE PER ACRE-FOOT LEVIED AGAINST THE MEMBER SERVICE AREA'S DUES VOLUME. THE DUES VOLUME FOR A MEMBER SERVICE AREA IS THE GREATER OF:

1. THE PLANNED ANNUAL SERVICE AREA REPLENISHMENT OBLIGATION AS ESTABLISHED PURSUANT TO SUBSECTION D, PARAGRAPH 2 OF THIS SECTION FOR THE MEMBER SERVICE AREA.

2. FIVE PER CENT OF THE SERVICE AREA'S ANNUAL ESTIMATED WATER DEMAND TO BE SATISFIED WITH EXCESS GROUNDWATER AS IDENTIFIED IN THE SERVICE AREA'S MOST RECENT DESIGNATION ORDER ISSUED BY THE DIRECTOR OF WATER RESOURCES. IF THE SERVICE AREA'S MOST RECENT DESIGNATION ORDER ISSUED BY THE DIRECTOR OF WATER RESOURCES DOES NOT IDENTIFY THE ANNUAL ESTIMATED WATER DEMAND TO BE SATISFIED WITH EXCESS GROUNDWATER, THE SERVICE AREA'S ANNUAL ESTIMATED WATER DEMAND TO BE SATISFIED WITH EXCESS GROUNDWATER SHALL BE CALCULATED CONSISTENT WITH THE RULES ADOPTED BY THE DIRECTOR PURSUANT TO SECTION 45-576, SUBSECTION H.

G. EXCEPT IN THE FIRST FULL YEAR FOLLOWING THE YEAR IN WHICH THE DIRECTOR MAKES A DETERMINATION THAT THE DISTRICT'S MOST RECENT PLAN OF OPERATION IS CONSISTENT WITH ACHIEVING THE MANAGEMENT GOALS OF THE ACTIVE MANAGEMENT AREAS PURSUANT TO SECTION 45-576.03, SUBSECTION M, FOR ANY YEAR IN WHICH THE DUES VOLUME FOR A MEMBER SERVICE AREA, AS DETERMINED PURSUANT TO SUBSECTION F OF THIS SECTION, EXCEEDS THE PREVIOUS YEAR'S DUES VOLUME FOR THE MEMBER SERVICE AREA, A MAKE-UP CHARGE SHALL BE ADDED TO THE ANNUAL MEMBERSHIP DUES ALLOCATED UNDER SUBSECTION F OF THIS SECTION TO THE MEMBER SERVICE AREA. THE MAKE-UP CHARGE SHALL BECOME PART OF THE MEMBER SERVICE AREA'S ANNUAL MEMBERSHIP DUES FOR THAT YEAR AND IS THE SUM OF:

1. THE DIFFERENCE BETWEEN THE CURRENT YEAR'S DUES VOLUME AND THE PREVIOUS YEAR'S DUES VOLUME, IN ACRE-FEET, MULTIPLIED BY THE SUM OF THE UNIFORM FEES PER ACRE-FOOT ESTABLISHED PURSUANT TO SUBSECTION F OF THIS SECTION FOR EACH YEAR SINCE THE LATER OF:

(a) THE FIRST FULL YEAR FOLLOWING THE YEAR OF THE DIRECTOR'S DETERMINATION THAT THE DISTRICT'S MOST RECENT PLAN OF OPERATION IS CONSISTENT WITH ACHIEVING THE MANAGEMENT GOALS OF THE ACTIVE MANAGEMENT AREAS PURSUANT TO SECTION 45-576.03, SUBSECTION M.

(b) THE YEAR IN WHICH THE SERVICE AREA QUALIFIED AS A MEMBER SERVICE AREA PURSUANT TO SECTION 48-3780.

2. INTEREST ON THE AMOUNT ESTABLISHED IN PARAGRAPH 1 OF THIS SUBSECTION CALCULATED AT AN INTEREST RATE DETERMINED BY THE DISTRICT.

3. THE AMOUNTS ESTABLISHED IN PARAGRAPHS 1 AND 2 OF THIS SUBSECTION MULTIPLIED BY TEN PER CENT.

H. THE ANNUAL MEMBERSHIP DUES BECOME AN OBLIGATION OF EACH MUNICIPAL PROVIDER THAT HAS A MEMBER SERVICE AREA AND SHALL BE STATED, COLLECTED AND ENFORCED WITH RESPECT TO THE MUNICIPAL PROVIDER IN THE SAME MANNER AS THE ANNUAL REPLENISHMENT TAX PURSUANT TO SECTIONS 48-3781 AND 48-3782.

I. ANNUAL MEMBERSHIP DUES COLLECTED BY THE DISTRICT SHALL BE DEPOSITED IN A SPECIAL FUND ESTABLISHED BY THE STATE TO BE SPENT BY THE DISTRICT ONLY FOR THE PURPOSES AUTHORIZED BY THIS ARTICLE, INCLUDING:

1. THE PAYMENT OF DEBT SERVICE EXPENSES AND FUNDING RESERVES FOR BONDS ISSUED FOR REPLENISHMENT PURPOSES.

2. THE PAYMENT OF THE COSTS OF ACQUIRING, LEASING OR EXCHANGING WATER OR WATER RIGHTS AND DEVELOPMENT OF INFRASTRUCTURE NECESSARY FOR THE DISTRICT TO PERFORM ITS REPLENISHMENT OBLIGATIONS.

J. AMOUNTS COLLECTED MAY BE TRANSFERRED TO A BANK OR TRUST COMPANY TO BE HELD IN TRUST AND SPENT WITH RESPECT TO BONDS ISSUED FOR REPLENISHMENT PURPOSES.

Sec. 10. Section 48-3780.01, Arizona Revised Statutes, is amended to read:

48-3780.01. <u>Member service area; replenishment reserve</u>

A. Except as provided in subsection B of this section, municipal providers with service areas that qualify under section 48-3780 shall pay to the district annual replenishment reserve charges and replenishment reserve fees as provided in section 48-3772, subsection E, and as follows:

1. A municipal provider with a member service area that qualified before January 1, 2004 shall pay annual replenishment reserve charges for twenty-five years beginning in 2004.

2. A municipal provider with a member service area that qualifies on or after January 1, 2004 shall:

(a) Pay annual replenishment reserve charges associated with each excess groundwater increment for twenty-three years beginning in the year after the excess groundwater increment is reported.

(b) Pay a replenishment reserve fee each year beginning in the year following qualification.

3. If the assured water supply designation of a municipal provider with a member service area is modified in a manner that increases the district's projected annual replenishment obligation as reported by the director of water resources pursuant to section 45-576, subsection F, the municipal provider shall:

(a) Pay annual replenishment reserve charges associated with each excess groundwater increment for twenty-three years beginning in the year after the excess groundwater increment is reported. Such charges are in addition to any replenishment reserve charges due under paragraphs 1 and 2.

(b) Pay a replenishment reserve fee each year beginning in the year following modification.

B. The district shall not levy ANNUAL MEMBERSHIP DUES, replenishment reserve fees, replenishment reserve charges or a reserve replacement component associated with replenishment activities performed under a resolution adopted pursuant to section 48-3772, subsection B, paragraph 10.

C. The district shall not use credits from a replenishment reserve subaccount established under section 45-859.01 to satisfy its replenishment obligations under a resolution adopted pursuant to section 48-3772, subsection B, paragraph 10.

APPROVED BY THE GOVERNOR MAY 10, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2010.

Passed the House April 28, 2010,

by the following vote: 46 Ayes,

11 Nays, 3 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate February 15, 2010,

by the following vote: 24 Ayes,

6 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

29 day of April, 2010,

at 10:10 o'clock A. M.

Nicole Bendle

Secretary to the Governor

Approved this 10 day of

May, 2010,

at 11:05 o'clock A. M.

Janice K. Brewer

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 10th day of May, 2010,

at 4:10 o'clock P. M.

Ken Bennett

Secretary of State

S.B. 1141
Third Reading